



*Let. of Langens*  
*the 1st*

# THE GAVEL AND THE MACE





# THE GAVEL AND THE MACE

*or*

*Parliamentary Law in Easy Chapters*

*By*


FRANK WARREN HACKETT

---

*Thus janglen they and demen and devise*  
—THE SQUIRE'S TALE

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In Memory of  
Samuel Dana Horton

(HARVARD 1864)

*Leader in Europe and America of the Cause of the  
International Parity of Gold and Silver*

*These Pages  
That took Shape under the Smile  
Of His Approval*

Are Affectionately Inscribed





## PREFACE

**T**HE present is a period of public and private meetings. Not to speak of the many who are actually members of a legislative assembly, we observe that nearly every man we know—and for the matter of that, woman, also—belongs to a society, of some sort or description, that has its by-laws, rules of order, and debates. One ought to feel positively thankful at possessing even an inkling of the mode whereby the proceedings of a meeting are conducted after a parliamentary fashion.

If, for the purpose of increasing a moderate stock of knowledge upon the subject, one resorts to manuals or treatises of the day—admirable as they are in many respects—it is only to come across a text that is dry, technical, and consequently unattractive. It has occurred to the writer that principles of parliamentary practice are capable of being treated so as to make a work interesting and entertaining, no less than instructive. In other words, that an experiment might be made to impart to the subject a literary form. I have tried to write a book that shall be readable; that shall engage the attention and sustain the interest of what is known as “the general reader.”

Legislative experience is not without its humorous incidents. These I have not hesitated to use, in order to keep the reader fairly well entertained. The treat-

*ment, I feel sure, will nowhere be found lacking in seriousness.*

*Let me add that great pains have been taken to render this work, unpretending as it is, a correct and reasonably complete guide to what is now the approved practice of our various legislative bodies, state and national.*

F. W. H.

Craighfen  
New Castle, New Hampshire  
24 September, 1900

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# THE GAVEL *and* THE MACE

## CHAPTER I

### INTRODUCTORY: OF MEETINGS

*Started—like a guilty thing.*

—HAMLET.

**M**AN is a gregarious animal. This much is settled. Man himself admits it. Herbert Spencer has not denied it. Indeed, at this late day to shut our eyes to the fact would be simply futile. It is perhaps not too much to go farther and declare that no animal, when we strike an average right through the year, makes a more gregarious showing than man.

\* Examine man in the state of development now reached by him, and you will discover a propensity, not to say a mania, on his part, for huddling together his fellow-men, and presiding over them. It will be seen, moreover, that this propensity knows no abatement, no postponement on account of the weather. You shall find him ever ready, at a moment's notice, to lay aside business and borrow the use of the nearest telephone, in order to drum up neighbors and acquaintances, and lay them under promise to attend "the meeting."

*Anthropo-  
logical*

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*Congenial  
talk*

\* He likes it. The prospect of a gathering animates his spirit. The stir and bustle of a caucus suits him. In his eyes the post of delegate wears a halo of fascination. He spies out happiness in being named to serve upon a committee; while it is joy outright to him to be elected to some office, or other, even though it carry with it not a cent of salary. To hear himself mentioned in a list of possible candidates is to experience a glow of pleasure. Going home he imparts to his wife as a profound secret that they are talking of him for the nomination. He smiles upon his offspring more benignly. The outlook keeps him for a while in the best of humor. Soothes him.

*Growth*

\* This same individual, when a boy at school, was never once suspected of endangering a blood-vessel in his efforts to stand at the head of the class. But now that he has attained man's estate, he wants to stand at the head of a delegation; to stand up somewhere and respectfully address the chair; or, at the very least, to be toward the front where somebody else is doing it. He yearns to be identified with what is going on at the meeting, even if it be nothing more than to pass the hat.

*Seems  
possessed*

\* A deep-seated craving in man, I repeat, is to get the floor, to get himself appointed on a committee; or, at any rate, to have his name put up so as to be voted upon in

some lodge, club, or society. He feels uncomfortable until he has tried a hand at making a motion, acting as teller, or performing some similar part, by way of asserting his manhood in the presence of his fellows.

\* These longings, to be sure, are in some instances gratified with a very simple service. There are aspirants whose careers have closed at an early stage of public performance, with entire satisfaction to themselves. I have heard of an old gentleman who, in his younger days, had upon one occasion made a motion to adjourn, in the House of Representatives of the Commonwealth of Massachusetts. He never forgot that day. His memory clung to it. Hailing, I believe, from one of those amphibious localities down on the Cape, his occupation was to follow the sea. Summer visitors in later years would report that when the discourse chanced to turn upon handling a vessel, Captain A. was modesty itself; but it was his wont to steer the conversation into a channel that would permit him to allude in bluff and hearty tones to that memorable date when, by adjourning a session of the General Court, he, so to speak, brought to anchor the ship of State.

\* In view of the drift that human nature invariably takes, are we not justified in the assertion that the earth moves, and that man seconds the motion?

*Harmless*

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*Moral*

\* Citizens of the United States of America, among sundry guaranteed blessings have a constitutional right<sup>1</sup> to assemble peaceably when and where they like, of course being liable at the common law for rent of the hall.

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<sup>1</sup> Articles in addition to, and amendments of, the Constitution of the United States of America : Article I: Washington, Government Printing Office.



## CHAPTER II

### HOW MEETINGS GET UNDER WAY

*I would by and by have some speech with you.*

—MEASURE FOR MEASURE.

WE shall assume that certain definitions had best be laid down once for all, so that we can have a distinct idea of what it is that we are talking about. Such was Daniel Webster's custom, after he had been tossed about for many days without an observation in thick weather, sir, upon an unknown sea. At least, Mr. Webster is reported as having remarked as much to Colonel Robert Y. Hayne, of South Carolina, in 1830, while interchanging views with that distinguished gentleman, in the Senate of the United States, in regard to the best method of carrying on the government.

\* To begin with, then, a public meeting may be defined as an assemblage of people brought together for the purpose of getting at an opinion upon a subject of local or of general concern, and of taking action thereon. Ostensibly a meeting deliberates. As a matter of fact, one or more managers are good enough to take in advance the burden of deliberation upon their shoulders; so that all that is left ordinarily for a meeting to do is, to ratify their con-

*What a  
meeting is*

clusions. Especially is this true of a convention called to nominate candidates for political office. The labor of determining what particular man the office shall seek has come to be known as "fixing the slate."

*Place aux  
dames*

\* In earlier and more degenerate days the duty of going to public meetings and listening to speeches was left, like other hardships, to the men. But an era of reform has wrought its changes. No longer does lovely woman shrink from gracing the scene of public assemblies with her millinery and her radiant presence. She is to be seen on the platform and her voice, sometimes mingled with that of others, is heard carrying forward the discussion.

*Lots of 'em*

\* Of meetings there are divers kinds. They can, however, be conveniently divided into two great classes, those where a collection is taken up; and those where it is dispensed with. Upon the whole, the latter I should say hits the popular taste.

*"Mr.  
Moderator"*

\* The town meeting (an institution warmly praised by writers who never go to one), will have a variety of topics under discussion; such as, for instance, shall the town vote to repair the bridge? Or, how many feet of new hose ought to be purchased? and the like. Each question in turn requires a certain amount of talk from the more fluent among the assembled voters and taxpayers.

\* An indignation meeting is a gathering where people grow furious, and scold collectively, instead of its being left to the local editor, or to each individual, to boil his own pot of wrath.

*"Outrageous"*

\* A rally may be defined as a conglomeration of men and boys, brought together upon the eve of election, for the purpose of having their enthusiasm fired up by a stump speaker, who gets purple in the face while demonstrating how "our side" is going to save the country, in spite of the machinations of an unscrupulous opposition, provided only that we succeed in getting out a full vote. At a rally, noise figures largely as an element, alike on the rostrum and on the floor.

*Vote early!*

\* Before a meeting can proceed to transact business it must have an organization; and, as a first step in this direction, it has to be called to order.

*Begins*

\* The hour named draws nigh. The hall is getting pretty well filled. Men, old and young, from varied walks of life have responded to the summons. They elbow their way to the front, or stand in animated groups here and there. Anon we may detect three or four small boys creeping along, and suppressing with a fine sense of propriety their tendency to giggle. They steal furtive glances around, intent on giving a wide berth to the solitary policeman on duty. Near the platform a knot of

*Come one—  
come all!*

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lookers-on are exchanging words. One of the number ostentatiously consults his watch.

*Well—*

\* More people stream in, and early comers have begun to wonder why their punctuality has not been rewarded by having the meeting opened. At this point, there enters a stoutly built gentleman, plainly excited at the thought that he may be late, and much astonished to find that he is not. Taking off his hat, and nodding to an acquaintance, he lets himself become calmer, and then pressing forward settles down into a prominent seat in front. A buzz travels around, a sure sign that something is about to happen. The stir increases. The expectant throng, it is plain to see, are in a state of ferment.

*The chair*

\* At last there steps upon the platform briskly, as if not a second should be lost, a man evidently well known, who coming forward, hat in hand, presents a general aspect of having in his possession facts that he would be pleased to communicate. A lull ensues; at least it should ensue.

*Order,  
gentlemen*

\* He raps on the table,—this gentleman does, as a signal for quiet, as well as a hint that hats had best come off. Then he stands still for a moment, to watch the effect.

*In embryo*

\* The raps executed on these occasions are usually moderate in tone; but once in a while there appears an individual who does

his rapping after a fashion that startles. Here is a somebody who means business. Mark him! He has a career in prospect. If not already a leader in the community he is bound, if he lives, to become one. Of such stuff is local greatness made.

\* Waiting till the ripples of excitement have died away, our pioneer friend delivers himself of an announcement, as follows:

\* "The hour having arrived for which this meeting has been called, gentlemen will please be seated, and come to order." If unable to check himself, it would be tolerated, I suppose, were he to add half a dozen more words in the same general line of observation; but the law says that a brief formula, substantially as here given, will answer. It has in fact answered for a great many years.

\* What would happen, should any one, upon this reasonable request, neglect or refuse to come to order, the books do not tell us. In newly settled regions, where a chairman in accepting the honors of the position lays his six-shooter in plain sight upon the table, as emblematic of official authority, the course likely to be pursued may easily be imagined. To the credit of mankind, it is to be observed, the unvaried custom has always been to seat one's self and come to order. Indeed the principle may be laid down as admitting of no exception, that after a meeting shall have

*Remarks*

*Query*

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|been called to order, it is unparliamentary  
for one to keep on making a noise, unless  
he furnish the noise in the shape of a  
speech.

## CHAPTER III

### MORE ABOUT MEETINGS

*Here we will sit.*

—MERCHANT OF VENICE.

THE first and indeed the only duty of the temporary occupant of the chair,—for this gentleman occupies the chair in contemplation of law, though you never see him actually sitting in it,—is to have the proper steps taken to determine who the officers of the meeting shall be. The recipients of this distinction have already been agreed upon, and the time-honored method is for a committee of nomination to be appointed by the chair, upon a motion and vote to that effect. The committee do the perfunctory work with due gravity. They retire and soon re-enter with a list of the names of those whom it would seem they have selected for the coveted positions. The names are read aloud, and being put to the question the entire number is, as a rule, voted in without a dissenting voice.<sup>1</sup>

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<sup>1</sup> It is characteristic of men thus brought together that they are disposed at the first send-off to be docile and tractable. They accept what is offered. Nevertheless the editor who has political virtue in his keeping still continues to warn his subscribers against the wickedness of "the machine." Thus far, however, "the machine" shows no signs of going out of fashion. Sometimes I wonder what we had better do about it.

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*Knowledge  
is power*

\* It is desirable that the gentleman chosen to act as chairman of the meeting should know how to preside. Should he prove deficient in this respect, he is likely to have an uncomfortable time of it; and what is more he will succeed in making everybody else uncomfortable. Not that a presiding officer must necessarily be steeped in the learning of the law parliamentary; but he ought to be on easy terms with at least the rudiments.

*V. P's*

\* Where the occasion is of a formal character, custom lays hold upon it to lift into distinction above their fellows other personages than the honorable chairman. There is a background to be filled; and the spectator is favored with an imposing view of a picked number of gentlemen stowed away upon the platform, in solid phalanx, serenely important and ponderously pleased. These worthies are styled vice-presidents.

*Why is it?*

\* I am not aware that a specialist has ever applied himself to investigate into the why and wherefore of the vice-presidents. We are accustomed to take it for granted that they are an institution that comes along with a free government; and therefore that a row of vice-presidents is essential to the carrying forward of proceedings in a meeting of the people. They remain a good deal of a mystery; but there is no denying the fact that they constitute a system that



has been firmly built in and rivetted to the fabric of our civilization.

\* The reader, however, must not be left to conjecture that every one upon the list of vice-presidents is put there merely as an ornamental appendage. Such is not the fact. An emergency may arise when the presiding officer can continue no longer to perform the duties of that office. Perhaps he has been intrusted with the door key under a promise not to miss the last train. He lives in the suburbs. There are families who do. At such a juncture the chairman beckons to the first vice-president, and withdraws quietly. The first vice-president takes the chair, with the appearance of a man coming into possession of his own. The countenance of the next vice-president brightens a little, while the business of the meeting goes ahead without perceptible jar.

\* Men no sooner organize themselves into a public meeting than the idea seizes them that the world outside is waiting to hear from them, through the medium of a set of resolutions. Accordingly a committee retires to prepare a preamble and the verbiage that usually follows it. The meeting is conscious of a lonesome feeling, while they are gone.

\* Soon, however, these gentlemen solemnly file back again, bringing in as a result of their deliberation a paper aglow with senti-

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ments that find vent, as likely as not, in sonorous phrase. It is so easy to resolve. The louder the resolutions ring, the better the meeting likes it; whether in terms of compliment or of denunciation, it is all one. The resolutions are spoken to; and then passed.

*Fired*

\* Resolutions invariably provide that a copy shall be transmitted somewhere, for resolutions untransmitted are as harmless as heat lightning. The office of authenticating the copy, and seeing that it is sent off as directed, falls to the lot of the secretary. This officer records the action of the meeting. What becomes of the record after he has prepared it, nobody seems to know.

## CHAPTER IV

### A LEGISLATURE: HOW COMPOSED

*Let not, however, the ingenuous youth imagine, etc.*

—MR. JUSTICE STORY,  
in his Equity Jurisprudence, Section 1532.

PASSING on to take our first look at a legislative assembly, we shall find it convenient to say a word upon the topic of the election of members, with particular reference to personal qualifications; and then we may go forward to consider some of the more important rules of procedure.

\* The law parliamentary, I am obliged to confess, deserves not to be extolled for gallantry; since we discover that, when it comes to prescribe qualifications for a seat in a deliberative body, it includes the fair sex among those to be kept out,—the list being, minors, idiots, lunatics,<sup>1</sup> paupers, women, and aliens. For what reason the law in its wisdom does not permit lovely woman to invade the legislative hall, and have her say there, I shall cautiously abstain from even venturing to guess. A territorial delegate in Congress finds himself but little better off than womankind—for

*Awkward -  
very*

---

<sup>1</sup> The reader need not be reminded that convicts also are not eligible, it being thought sufficient that they serve the State in another capacity.

although he can talk, he cannot vote. Who may predict how much longer the other sex is going to let man keep to himself the honors and perils of a legislative career?<sup>1</sup>

*About this  
time expect,  
etc.*

\* Legislatures meet at stated periods ; and it is the business of the member-elect to find out the precise date when his presence is needed at the seat of government. A few days before that fixed for the convening of the assembly sundry stray visitors, of serious mien, are to be observed alighting at the railroad station, and taking up their line of march, valise and umbrella in hand, to the Capitol. Your new member, alive to the responsibilities of the situation, is not going to let the country suffer from tardiness on his part. He knows full well what a burden it is to take charge of the public welfare. He is willing to try it.

*The hour—  
the man*

\* When the momentous hour is at hand for the session to open, both floor and gallery present a scene of great animation. A crowd of spectators, including ladies in bright array, look on approvingly. Members bustle about, precisely as though a crisis had arrived. To the clerk of the last House there is usually assigned the duty of calling the assembled throng to order ; but sometimes this honorable office is, as a

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<sup>1</sup> Possibly there is something prophetic in the words of Carlyle : " Nay, might there not be a Female Parliament, too, with screams from the opposition benches, and the honorable member borne out in hysterics." I. French Revolution, 302.

mark of respect, entrusted to the oldest member present. The first thing to be done is to ascertain who are in attendance claiming to represent the sovereign will of the people as expressed through the medium of the ballot-box, aided by a well-organized machine. Inasmuch as success at the polls is a matter of notoriety, the task of preparing a roll of the names of members-elect, is comparatively simple. In the few instances where a seat is to be contested, a certificate has already been given to some one, and for the purpose of organization this gentleman becomes clothed with a *prima facie* right to be recognized as the sitting member.

\* The roll of names is called. All that is required of a member-elect upon hearing his name, is to speak up like a freeman, and answer "Here." Even if he does nothing else, this act on his part entitles him to a day's pay. After getting through with a calling of the roll, there is no more popular move to be started than that of adjourning for dinner.

*Calling the  
roll*

\* Another step early to be taken is to inspect the credentials of such persons as shall have presented themselves. This precaution is resorted to in order that nobody may meddle with legislative machinery who has not been duly sent forward for the purpose. Every house constitutes itself a judge of the qualifications of its own

*Safeguard*

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members. A good degree of circumspection has to be exercised at the threshold; otherwise who can tell what improper characters might effect an entrance, such as men addicted to the use of stimulants, out late nights, and the like.

*Sworn in*

\* This business ended, the members in solemn array hold up their right hands and take the oath of office.

## CHAPTER V

### MORE OF EARLY STAGES

*I'll be a candle-holder, and look on.*

—ROMEO AND JULIET.

WHERE am I to sit, is a question that a member asks himself the first time he sets foot in the chamber destined to be the scene of his public service. Our aspiring young friend, who has designs upon the eye of the Speaker, and who means upon every important occasion to electrify the country with remarks, is not blind to the advantage of having a conspicuous spot from which to sparkle. A speech delivered about midway of the House, or well down to the front, seems more effective than when your orator is forced to take his stand a long way off, at the outer fringe of seats. The average member feels that his talents entitle him to strive for the best seat he can lay hold of. It is a duty, too, which he owes to his constituents. Yet, after all, there is not much freedom of selection, since a distribution of seats is commonly made by lot. At the same time, new members are quick to discover that the able leaders are not to be banished to the region of the back rows. If you chance to be a new-comer, it may prove worth your while, to

assume an air of special importance. By so doing, you, perhaps, may, so far, impose upon some unsuspecting fellow-member, that he will consent to exchange for yours the better seat he has had the good luck to draw.

*Miscellaneous*

\* A time-honored usage of the House of Commons permits an old member to retain a seat which at former sessions he had been in the habit of occupying,—a deference to seniority that is not without example on this side of the Atlantic.

\* It is an established custom, in some bodies, for members of like political faith to sit together. This practice tends to divide the chamber in half, each party taking its own side, with due provision for those in excess who make up the majority. The plan is convenient. One obvious advantage is that opponents are thus enabled to glare at each other across the line of division, commonly an aisle. Besides, members when fenced off, as it were, in this manner find it more feasible to carry on those hasty consultations upon the floor that are often needful during a political debate. Such arrangement works well so far as the two great parties are concerned, but occasionally a nondescript appears, under the name of independent, or reformer, whose presence threatens an upset, and who may be presumed to incur risk of contamination should he be required to pitch



his tent in either camp. Since architectural limitations, as a rule, do not admit of his going off and sitting all by himself, the gentleman in question is compelled to make the best of a bad business, and take up with one or the other divisions of his misguided brethren, as the wheel of fortune shall have determined.

\* In accord with good, old, democratic notions, the furniture on the floor of the House is the same for all members. But there is one chair in the chamber that is much coveted. Not that it is more comfortable than the rest, but because of the distinction that its occupancy implies. I refer, of course, to the chair set apart for the presiding officer to fill. One of the earliest inquiries to be answered is, who is the patriot that stands ready to sacrifice himself at the altar of his country, by consenting to serve as Speaker. To settle this momentous question, it is customary for each political party to hold a caucus. The nominee of that party which happens to be in the ascendancy, is the coming man. The minority caucus contents itself with dealing in compliments instead of substantial favors. At an hour previously named, the House proceeds to ballot for Speaker, with the result seldom failing that the choice of the caucus is declared the choice of the House. As soon as a Speaker is elected, the House conceives it to be neces-

*The Speaker*

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*Escorted*

sary that the recipient of its honors shall be conducted to the chair under an escort.

\* Whether satellites upon this impressive occasion are to be viewed as a body-guard, affording a member protection while en route from his seat to the chair which he is to adorn as presiding officer; or whether the successful candidate is presumed, by a pleasing fiction, to be unaware of the precise locality of the chair itself, it is perhaps hardly worth the while to speculate. Suffice it to say custom dictates the selection of two members (of whom the extinguished candidate of the minority is usually one), who march down the aisle in stately procession, one on either side of the child of fortune, guarding jealously his sacred person until he reaches the desk and grasps the gavel. There he takes the oath of office, after which he is left to shift for himself.

*The rising  
sun*

\* As soon as the distinguished incumbent has arrived in position, and bowed his acknowledgments, he is expected to turn a radiant face first toward the reporters, and next to his brother members (not forgetting a glance at the ladies in the gallery), and to favor the House with a few remarks,—the fewer the better. He can hardly avoid letting fall a word or two of thanks, in which he expresses, honestly, no doubt, a distrust of his fitness for the exacting duties of the post. He promises good behaviour, and pledges himself to treat every-

body in the handsomest manner possible. After all this is accomplished, he faces to the front, and standing as if about to have a camera flashed upon him, he seems to say: "Now, bring on your business."

\* The imposing ceremony over, everybody *Next* is agog to learn who are to be named as the standing committees. The Speaker ought to lose no time in getting ready his list, since legislation is at a standstill until committees are announced. Of the nature of this duty, and its performance, something will be said in a later chapter of this ingenious work.

\* At the proper juncture in the opening hours of the session, the Executive sends in his message, which is read for the information of the body, and for the welfare of mankind. His Excellency reminds the legislature that time has gone on its flight; and he pauses to congratulate the country that they and he are animated with patriotic purposes; together with much more, in the same pleasing line of reflection. He recites what work he has done; goes on to tell them what remains to be done, and mentions a few reforms that he has the honor to recommend. He states how much money there is in the Treasury, and accounts for what is not there by a reference to accompanying tables of figures arranged after the order of official arithmetic, imposing and unintelligible. The message *The King's speech*

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alludes likewise to the State penitentiary; and mentions by name one or two persons yet outside of it.

*How disposed  
of*

\* Not knowing what better to do with this mass of information, statistical and otherwise, legislative assemblies long ago contracted the habit of referring an executive message by piecemeal to appropriate committees. The committees are supposed to digest what they thus get. At their leisure, they decide what of its recommendations they can most appropriately neglect. Custom has ordained also that the document be printed for perusal by the members, and for circulation through the school districts. Thus does it go upon the shelf (or make its way sooner or later to the junk shop), as a part of the solid literature of the age.

## CHAPTER VI

### THE SOURCES OF PARLIAMENTARY LAW .

*The House of Commons is a sort of whispering gallery to all Europe.*

—HAZLITT.

THE Congress of the United States of America, as well as our State legislatures, when they have no special provision to cover the case, govern themselves by a sort of parliamentary common law, an heirloom which, like that mass of mingled wisdom and absurdity, the common law itself, has been handed down to us from Great Britain. "Parliaments," says that popular and entertaining writer, Sir William Blackstone, Knt., "are coeval with the kingdom itself." Seeing that Sir William's statement has appeared regularly in various revised and annotated editions of his standard work,<sup>1</sup> we are safe, I presume, in relying upon it as literally correct. At all events, one may detect in the parliamentary style of doing business at the present day, a pleasing flavor of antiquity.

\* There are rows of books labelled "Hansard's Parliamentary Debates," that are packed full of solid reading matter, warranted to keep in any climate. We may

*A library in  
itself*

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<sup>1</sup> Blackstone's Commentaries on the Laws of England.

not overlook our Annals of Congress, The Congressional Debates and Congressional Globe, or its peerless successor, The Congressional Record. A complete outfit of the Record, with the Index thereto, neatly bound, would make, I should imagine, in the absence of anything better, an appropriate and beautiful holiday gift. Odd volumes of these several works can be picked up at the second-hand bookstores; though the man who picks The Congressional Record up, soon puts it down again. \* Decisions of presiding officers, I may here as well as anywhere remark, become precedents, just as do those of judges in courts of law.

*Definitions*

\* The sense of an assembly is expressed by a resolution, an order, or a vote. A resolution may be defined as a flourish of trumpets, put into words. For example: *Resolved*, That we are a great people; *Resolved*, That we point with pride . . . ; *Resolved*, That we arraign the party of the opposition; we denounce, etc., etc.

*Resolved*

*A vote*

\* While the term "vote" may be applied in general to a result reached by the decision of an assembly, it designates also the process of expressing the will of each individual. The expression itself of the will is likewise a vote. I cite to this point a definition that I am confident must be correct, for I came across it only a day or two ago, in a calf-bound law-book, that once belonged to

Charles O'Connor, years ago the distinguished head of the New York bar: "Vote: The will of a member of a body, formally manifested towards the decision of a question by the body, is his vote."

\* Getting at a vote consists in nothing more nor less than submitting a proposition to the members of the assembly, to accept or reject, as they shall see fit. The course pursued is somewhat as follows: Those who support it make speeches, wherein they prove not only that an affirmative action will secure untold advantages; but that, if it be not taken, all sorts of disasters are morally certain to ensue. The view entertained by their opponents is different. Bringing to bear the artillery of irresistible logic the gentlemen on the other side startle themselves, if no one else, by disclosing what awful results will follow the adoption of the measure. The dearest rights of the people are seen to be in imminent danger, and every lover of his country is implored to rescue that country from the doom to which the madness of the opposition is fast hurrying her. The eloquence, I should judge, upon an average, will be about as lurid on one side as on the other.

\* Then the bill passes; or, it fails to pass. The sun, with a careless indifference, rises and sets as theretofore, in compliance with figures tabulated for it at the Nautical Al-

*The way it  
is done*

*What  
happens.  
Also, what  
doesn't*



## 38 THE GAVEL AND THE MACE

manac Office. The pastime of alternately praising a bill, and of going into hysterics over it, is called "debate," of which more anon.

*Two sides*

\* The majority of an assembly is expected to bear the responsibility, and consequently has the greater portion of the work to do. It is to the party of the majority that the country looks for the results of legislation, a fact that its members are not likely to forget from any omission on the part of the other side to remind them of it.

*Tactics*

\* A minority is free to take the floor, and deal out denunciation in the loudest of tones. Indeed, at the last extremity, except where positively forbidden by the rules, they can fly to certain dilatory motions, the use of which is known as "filibustering." Sometimes by a frequent call of the yeas and nays, a minority may stave off action, and by consuming time kill the bill. In some assemblies a small number of fluent talkers can "talk a bill to death." When a final vote is reached, a minority may expire decently "in the last ditch" by entering a protest upon the pages of the journal. This portentous act, however, is reserved usually for dire emergencies.

\* We learn from experience that time works changes in public opinion, so that the little handful of to-day, who have the courage to stand firm against the many, may perhaps come before long to be looked



upon as a faithful few, who were wise above their brethren. Where all that a man asks is, that he may have his name recorded as appealing to the future for vindication, it is so slight a labor for the clerk, and consumes so little of the public stationery, that it were almost cruel to say him nay.

## CHAPTER VII

### LAW-MAKERS AT WORK

*Since we cannot attain to greatness, let us have our revenge by railing at it.*

—MONTAIGNE.

THE object for which citizens are induced to leave their respective callings, and bring their wits together as law-makers is (aside from drawing the salaries), to transact public business. They construct the statutes. Almost every member is impressed with an idea that he must figure as the champion of some measure or other during the session, else those who voted for him will suspect that he is not the statesman they had taken him for. As a result, legislation may be described as a bellows that is never let alone for blowing; since legislators think nothing of having numerous irons in the fire in the shape of bills and resolutions of various descriptions.

*Launching  
bills*

\* To present a bill demands little more of a member than to wait till the hour arrives when the introduction of bills is in order. Then, rising in his place, he is to address the Chair, mentioning the bill by its title. It is not incumbent upon him to indicate where the Chair is, by pointing a forefinger in that direction. Men have succeeded in

going right through public life, in at one end and out at the other, without once adopting this expedient for catching the eye of a presiding officer. The moment a page detects that a member who is getting up has a bill in hand, he glides thither, and taking the paper, conveys it quickly to the clerk's desk; where that official receives it, and casts an eye over it, preparatory if need be to reading aloud the title.<sup>1</sup>

\* Because a member introduces a bill, it does not follow that he is its author. By asking, however, the reference of a bill to a committee, a member assumes a fatherly care over its fortunes; he is held to approve of the legislation which it proposes. Still, it sometimes occurs that a gentleman may be willing to present a bill, and yet not be disposed to take upon himself the responsibility of endorsing it; in which event it is his privilege to explain that "by request" he introduces the bill. In so saying he leaves his hearers at liberty to regard it much as if it had been left, so to speak, upon the doorstep of the House, to be taken in, out of charity.

*The putative father*

\* Not so, however, when a member means to pledge to a bill his hearty support. Here a certain animation of tone and manner an-

*Knight in armor*

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<sup>1</sup>In the House of Representatives at Washington time is now saved by not offering petitions, bills, and resolutions in the open House; they are delivered to the Speaker, or, if of a private nature, to the clerk.

nounces plainly that a champion has entered the lists. Perhaps his advocacy may come to be so ardent and persistent, that the measure gets to be known as *his* bill. At rare intervals in the history of legislation, it is the fortune of a bill, or motion, to leap to the front rank of importance, carrying along with it the name of its sponsor; as, Foote's Resolutions; The Wilmot Proviso; or, The Plimsoll Act.

*Drafting  
bills*

\* What with the capacity for invention that marks our people, and the energy displayed in the line of material development, it seems a pity that American genius has not as yet invented a machine for drafting bills, public and private. Such a contrivance would save a vast amount of tedious work, now done by hand. The volume of bills manufactured annually in this country is immense. At the National Capitol, and at every State House one sees bills and bills pouring in; bills upon every conceivable subject under the sun; and bills for the relief of all sorts of people, or their heirs. Looking at results from a statistical point of view, it seems really as though the people of the United States are favored year by year with a greater crop of bills than they need for current consumption. The attention of the Department of State cannot be invited too urgently to the importance of taking steps for cultivating friendly relations with unsuspecting countries,

at distant parts of the globe, such as by the adroit wording of a treaty might be obliged to take off our hands a portion of this surplus product.

\* No one accustomed to behold a member at work with official harness on, would dream of holding him responsible as the author and perpetrator of all the bills that he introduces. As a rule, senators and representatives do not draft bills. Outsiders do the work. Were members themselves to undertake to draft bills, they would soon find out that they had no time left to run of errands for constituents, or to look after their own re-election. Parties wanting legislation are expected to call upon the honorable member with a bill already put into shape.

*Too busy*

\* Sometimes, such is the mysterious nature of the workings of the human mind, there are more men in their seats who want to talk than there are of those who are anxious to listen. When an array of gentlemen rise at the same moment, and vociferate in concert, it becomes the instant duty of the presiding officer to quell the gale. He will see to it that all sit down again. His efforts to this end will consist largely of vigorous rappings, done with a hammer furnished for the purpose at the public expense. As soon as the Chair becomes master of the situation, he will decide who shall have the floor.

*Babel*

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*A way out*

\* There exists in Parliament a custom of awarding precedence, at such a juncture, to a new member, who as yet has not spoken. To do so may open the door to fresh talent. It has the effect, at any rate, to prevent new members from getting discouraged. In the United States no such tender consideration has been thought necessary; and a new hand at the business is let alone to take his chances with the rest.

*Recognition*

\* A member secures the floor, then, by rising in his place and addressing the occupant of the Chair as "Mr. Speaker," or "Mr. Chairman," or "Mr. President," as the appropriate title may be.

*About chairs*

\* Chairs are in such common use at the present day, that in one sense every person who occupies a chair is a chairman, unless it be a chair-woman. It was not thus in early times. A chair was a scarce article; and it was thought to be well enough that so long as the single individual on whom was conferred the honor of presiding over the assembly, could have at his disposal a piece of furniture of this description, the rest of the company might be left to stand up. The House of Lords (the members of which for decorum and good behavior will compare very favorably with the United States Senate, at No. 1 Pennsylvania Avenue, Washington, District of Columbia), is kept in the path of rectitude by a bewigged

gentleman called the Lord High Chancellor, who sits solemnly on the woolsack,<sup>1</sup> sustained by a salary, of a great many pounds, together with sundry perquisites. The Lord High Chancellor of Great Britain is pensioned off in his old age, so that altogether he is to be considered as having come into an uncommonly good situation. The place, I hear, is much sought after.

\* The presiding officer of the lower House, alike of Congress and of State Legislatures, is termed the Speaker; of the upper, the President; whereas in the House of Lords a peer addresses himself directly to the whole body, and says, "My Lords."

*Terminology*

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<sup>1</sup> So named from its inventor, Cardinal Woolsack.

## CHAPTER VIII

### QUORUM

*Ay, and rato-lorum, too.*

—MERRY WIVES OF WINDSOR.

**W**HERE a meeting assembles for the first time, there is no need that any particular number of persons shall be present, before the meeting is called to order. But in cases where an organization is designed to be permanent, and meetings are to occur at successive intervals, it is usual to fix upon a certain number of members who must be present in order to constitute a quorum. This is done by a by-law, or rule; if the number be not fixed by positive rule, the law steps in and says that for a quorum a majority of the whole number of members is necessary.

*The British  
Lion*

\* The House of Lords have established a rule that three of their Lordships shall constitute a quorum, while in order to proceed with business in the House of Commons, forty members must be present.

\* Six hundred and seventy of Her Majesty's loyal subjects are privileged to write after their signatures the honorable initials, "M. P." Such is the numerical strength of the Commons. The visitor at Westminster, however, who peeps over the gallery



rail, with a becoming awe, and beholds rows of heads beneath, filled with wisdom, must not be disturbed should his count of the noble Britons that adorn the benches, fail to reach the handsome number of six hundred and seventy. To the glory of the British Constitution be it said, by a simple device of allowing forty good men and true to keep the wheels in motion, a gracious relief is afforded the remnant of six hundred and thirty members, each one of whom may for a brief season feel at liberty to turn elsewhere to duties of an engrossing character, in the assurance that meanwhile the country will pursue its career as usual, and the immortal principles of Magna Charta be kept unimpaired—at least for a day or two until they can get back to their seats.

\* The Constitution of the United States provides that a majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide. This language, or its equivalent, is to be found in the constitutions of nearly every State.

\* As we look around through the States and Territories constituting this happy republic, we observe everywhere a disinclination to let a minority lord it over their more numerous fellows. A minority may pos-

*The  
Constitution  
and its  
friends*

*Beating the  
tom-tom*

sess all the wisdom ; the " better element " may be there—to a man—but the others have the votes ; and it is the greater vote that passes a bill. This doctrine, sound as it is, our friends of the minority are disposed at times to ignore. The moment a political party has been relegated by popular vote to a minority in the legislature, that moment it begins to manifest intense solicitude for the Constitution. It sounds the alarm. It sends forth the solemn warning that to the minority the people must look for the preservation of their liberties. In its zeal to save the country from impending destruction, it assumes that a misguided and headstrong majority cannot by any possibility be right ; hence that a gallant minority must step to the front and shape legislation, or else stop proceedings until its advice is heeded, and its views substantially adopted.

*" I thank  
you, No "*

\* Now it happens that under our theory of government the people hold the majority responsible for enacting laws, or for a failure to enact them. Upon adjournment of the legislature, the party of the majority must render an account of stewardship, whereas to the minority is left the easy office of proving how much better things would have come to pass had only they been in power. It is usual for the dominant party under a sense of such a responsibility, to conduct business according to

their own interpretation of the rules, paying attention at least to what their brethren of the minority may have to say, but declining to yield to dictation. Such is the ever-recurring contention between the "outs" and the "ins." A minority talks and fulminates; the majority acts, while it is left for the people to pass judgment on the result.

\* The rights and wrongs of a minority is a topic of more than ordinary interest. With the leave of my reader, I shall take occasion to revert to it in a subsequent chapter.

*Lack of a quorum*

\* A useful fiction prevails in legislative circles to the effect that under ordinary circumstances a quorum will be presumed to exist, so long as nobody says a word to the contrary. The truth is, much routine business is dispatched under what really amounts to unanimous consent. The question is put in the usual manner, nobody cares to object, and the Speaker declares that the ayes have it, whereas perhaps not a single voice has responded. When objection is raised, however, that a quorum is not present, the Speaker must look sharp to ascertain what the fact may be, though up to that moment he has viewed with unconcern the circumstance that a mere handful of members are transacting business. Should it become necessary, in order to create a quorum, for the Speaker to include

himself in the count, he has a right, indeed it is his duty, so to do.

*Dumb*

\* Upon principle, there would seem to be no doubt that the visible presence of the fleshly tabernacle of a legislator in his seat in the House implies necessarily that the legislator himself is present officially for the purpose of being counted to make up a quorum. To argue that an able-bodied representative may be present in person, yet must be regarded as theoretically absent, is to introduce a metaphysical subtlety of a character that plain matter-of-fact people are not disposed to relish. Yet at one time just such a doctrine prevailed in Congress; and it had grown to be a custom for members to sit in their seats, and decline to answer to their names upon roll-call; whereupon they were considered to be absent. This curious usage at last became the means in the hands of a minority of obstructing seriously the public business. Speaker Reed put an end to it.

## CHAPTER IX

### THE GAVEL AND THE MACE

*By the by, what a capital article of furniture an arm-chair is, and above all, how convenient to a thoughtful man.*

—A JOURNEY AROUND MY ROOM.

**A**MONG the sayings attributed to the first Napoleon is the famous maxim: "Every French soldier carries in his knapsack the baton of a marshal of France." To declare of every member of a legislature that he brings in his valise the gavel of a presiding officer, is to put the case strongly. There is no telling though when the honor may arrive of being asked to take the chair; for while there is but one Mr. Speaker, it often happens that a member is called temporarily to preside, or to act as chairman in a committee of the whole.

\* My fellow-countrymen, therefore, naturally want to know what are the principal duties of the Speaker, so as to be prepared against all possible emergencies. They may be summed up briefly as follows:

\* To take the chair, and call members to order. To announce in proper succession the various matters of business coming before the House for consideration. To hear motions stated, and submit to the

*What he has to do*

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House such as deserve recognition. To put the vote, when tired of waiting longer; and to announce the result of the vote. To use the symbol of the State, in the shape of a gavel, or hammer, wherewith to rap members to order.

*Lo, the mace!* \* As a last resort for this purpose Great Britain arms the Speaker of her House of Commons with a mace, built of solid silver, and reputed to be a terrible weapon at close quarters. Our House of Representatives at Washington has adopted a like emblem of parliamentary authority. The American mace also is a formidable affair. It may be described as a bundle of ebony rods, bound with bands of silver, and bearing at the top a silver globe, on which perches the national eagle, in the act of spreading his wings. Following the custom of Parliament this mighty utensil is brought in, and set upon a pedestal at the right hand of the Speaker, when the House assembles. When the House goes into committee of the whole, the mace is removed. At a season of hubbub and commotion the spectacle of the sergeant-at-arms seizing the majestic implement, at the order of the Speaker, and starting up the aisle en route for an offender, is designed to strike the beholder with unspeakable awe.

*A busy man* \* His further duties are to receive messages from the outside world, and deliver them to the assembly. To affix his signature to

bills that the House shall have passed. This by way of authentication, like the name blown upon the bottle, to prevent counterfeits. In general he is to act as the mouth-piece of the assembly—its chief spokesman. This officer was early called "The Speaker" in the House of Commons, for with true Anglo-Saxon grit he spoke up and let the King and the Lords know what the Commons would have him say. Lastly, it may be added, in a word, that it is the duty of the Speaker to see that the rules of the House are not infringed, a duty that demands prompt action; and admits of no delay, debate, shuffling, or temporizing.

\* According to the authority of the "Lex Parliamentaria," the Speaker ought to be "religious, honest, grave, wise, faithful, and secrete." This is the reason why there is no lack of men ready to step into the office.

\* With its cumbering cares, the Chair is not without privileges. To begin with, the pay of a Speaker is better. He is shown to a front seat at public ceremonies, and is made a good deal of. Moreover, should he desire to vacate the chair for a while, he can hand over the honor temporarily to such member as he chooses, who presides *pro tem*. The Speaker relapses thereupon into the status of an ordinary member, except that his salary keeps running on at the higher rate.

*Must be up  
to standard*

*Privileges*

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\* A presiding officer may read sitting, but to state a motion he must stand. Representing as he does the whole House, and not the majority merely, he will be careful to avoid leaning to either side.



## CHAPTER X

### OTHER OFFICIALS AND WHAT THEY HAVE TO DO

*Enter on my list of friends.*

—THE TASK.

**A**NOTHER functionary of importance in legislative work is the clerk. This officer is expected to display the cardinal virtues. He should possess good looks, wear good clothes, evince good nature, have a good memory, and write a good hand. The clerk's business is to keep a record of what the assembly does. Not only has he no occasion to record speeches that never have been delivered, but he is not expected even to take minutes of particular men's speeches at all. It is what the House does, not what it says, that he is to look after.

\* The clerk reads such papers as the House may wish to hear; or, rather, that the House pretends that it wishes to hear; for few attend nowadays in the slightest degree to the reading of a bill, except possibly the member who has introduced it.

\* The roll of members is called by the clerk, who puts a mark against absentees. To the clerk is committed the custody of papers and documents, in addition to the journal of proceedings, all of which he is

*Trippingly  
on the  
tongue*

*On the alert*

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paid a monthly salary for watching with a jealous eye. The charge of the table is likewise entrusted to this official; and, inasmuch as a great many bills and motions in the course of a protracted session are laid upon the table, it is a task of no small difficulty to keep it in order. The clerk, as well as the presiding officer, authenticates bills that have passed the House.

*A standing  
rule*

\* The clerk should stand when reading, or when calling the roll of the assembly. He ought to be affable towards the members, and quick to produce a pigeon-holed paper when called upon suddenly. The clerk has a deputy officer appointed to assist him in the performance of his many arduous duties.

*The majesty  
of the law*

\* We observe next that there is the sergeant-at-arms, a sort of sheriff, or constable, on whom rests the duty of carrying into effect the orders of the assembly. This functionary acts as a police officer to preserve order. In a crisis of disorder, as stated already, he wields the mace. He it is who sternly clears the gallery when, in spite of warning from the Speaker, its occupants continue to be demonstrative. The sergeant-at-arms is sent after members who are playing truant. He serves processes and summons witnesses. He has the pleasure of arresting such offenders as the assembly shall direct to be taken into custody. These culprits he shuts up, nor does

he let them out until he is told officially so to do.

\* From time immemorial it has been the custom for legislative bodies to elect a chaplain. Upon the duties of this officer I need not enlarge. In Massachusetts, formerly, it was the usage of the General Court to march in a body, upon the first day of the session, to a church, or meeting-house, and listen to an election sermon. The theory is, that a few hours of this sort of thing does the legislature good. They are managing now, however, to get along without it.

*The Chaplain*

\* An indispensable appendage to an assembly and a busy official is its printer. They put him under solemn oath not to divulge the contents of such papers and documents entrusted to his care as are designed to be kept secret. The precaution of an uplifted hand is taken because of a fear that having once been of the newspaper fraternity, the printer from force of habit might convert official material into sensational dispatches in order to appease the public. It is the printer who is responsible for the issue of those bulky and indigestible volumes known as "Pub. Docs." He is supposed to read them through in proof. Thus we see that no walk in life is free from trials.

*Ink and type*

\* The people of the United States like to feel themselves in touch with the great men whom they have sent to transact business

*The  
Postmaster*

for them at Washington. That a representative in Congress finds time, amid the pressure of great national duties, to send into his district through the mail, a public document, or a package of seeds, is proof positive that his heart still beats true to principle. The United States Senate and the House of Representatives each has its postmaster, who deals with an immense quantity of mail matter. There is assigned to these officials a room, in the respective wings of the Capitol, fitted up for all the world like a real post-office, with rows of boxes, having glass fronts, neatly numbered. Here the postmaster, withdrawn from public gaze, can read the newspaper, or sit and talk politics, while his assistants sort the mail, hasten off the huge bags, and perform post-office work generally. Any free-born American citizen has the privilege of dropping a letter into either of these post-offices at the Capitol, and of having it duly transmitted, provided it be addressed legibly and has its northeast corner adorned with a suitable stamp.

*Doorkeeper*

\* A legislative assembly can ill afford to keep an inefficient servant at the door. The doorkeeper has many duties to discharge which, though they seem to be simple enough, require a high degree of promptness and energy. It is his business to stand guard over the entrances, and maintain a sharp lookout that no intruder

manages to slip in; it being necessary to frown with official severity upon colporteurs, mendicants, life-insurance agents, small boys, reformers, railroad presidents; in fine, upon suspicious characters of whatsoever description. He also has to be extremely vigilant to recognize members of the third house in good standing, so as not to mistake them for mere outsiders. Depend upon it, an incumbent of the genuine stamp has to have his wits about him. The ideal doorkeeper possesses the urbanity of a hotel-clerk, combined with the firmness of a newly appointed street-car conductor. I once saw such a man. He is dead.<sup>1</sup>

\* Nor should we omit the official reporters. *"Wag all"* Certain important bodies (Parliament and the Houses of Congress, for example) employ stenographic reporters, to take down in shorthand what is uttered upon the floor. Whether this be worth the pains or not, the work itself is at times a signal triumph of human skill and ingenuity. In the House of Representatives at Washington there are occasions when debate waxes warm, fierce and furious, members storming at each other, all talking at one and the same time,

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<sup>1</sup> It has passed into history that an appointee from a Southern State as a doorkeeper of the House of Representatives, at Washington, after being confronted with a week's experience, unbosomed himself in a letter to friends at home to the effect that he was "a bigger man than Old Grant." At that particular time "Old Grant" was living at the White House, attending cabinet meetings, approving bills, and otherwise hammering away at the public business, as the Eighteenth President of the United States.

regardless of rules, or of the rapping of the Speaker's gavel. Words are hurled to and fro, whizzing by each other in a perfect cyclone. Where the blast grows most tempestuous, indeed at the very storm-centre, can be discovered one of the faithful corps of stenographers, his nimble pencil filling page after page of his note-book, losing not so much as one elegant expression, and giving to each remark its own author, by name. Though interruptions from every corner of the chamber come thick and fast, the alert reporter must work on, creating column after column of intelligible speech out of a chaos of jargon, and of dislocated sentences. The marvel is that he loses not so much as a punctuation point. Posterity gets it all.<sup>1</sup>

*Our friends  
of the press*

\* There is "a sweet little cherub that sits up aloft," who likely enough may be mistaken for one of the officials of the assembly. He is a journalist, and his vocation it is to skim over the surface of events. His trained ear catches here and there a something that, after slight embellishment, will suit the local market; and away over the

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<sup>1</sup> On one occasion the House met at ten o'clock in the forenoon, and the session did not close until seven o'clock of the next morning. During all this time things were going on at the liveliest rate; a tumult of debate was surging; questions and quickly parried interruptions, were boiling over from every part of the hall. And yet thirty minutes after adjournment, the M.S. was in the hands of the Congressional printer. When the House met again that day at noon, a full verbatim report, printed in the Record, was lying upon every member's desk.

wires it goes in the shape of a "special." A good fellow is this same quill-driver. He makes it his business to be on speaking terms with everybody; he keeps quiet occasionally, and is precisely the young man that a member who means to succeed in public life, wants to keep on the right side of. In fact, your experienced news reporter understands members better than they understand themselves.<sup>1</sup>

\* There are sundry minor officials that busy themselves beneath the dome of a capitol who are not to be left out of our inventory. Bright, nimble lads who act as pages; messengers and janitors—men who sweep out, and build the fires; the restaurant-keeper, and others. All have their humble yet useful parts to play in the great drama of legislation. *A few more*

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<sup>1</sup> Newspaper reporting is a product of evolution. We read that in 1694 one Dyer who had presumed to report the Parliamentary debates in his "News Letter," was brought to the bar of the House of Commons, and upon his knees was reprimanded by Mr. Speaker for his great presumption. It was resolved "That no news letter-writers do in their letters or other papers that they disperse presume to intermeddle with the debate or any other proceedings of this House." Barnett Smith, Vol. II., page 50. At a later period, when reporting was winked at, the reporter still had a hard time of it. Of William Woodfall (known as "Memory Woodfall") it is recorded that he would stand at the bar of the House of Lords all night, or sit on a back bench in the gallery of the House of Commons, with no refreshment but a hard-boiled egg, and reproduce a whole debate, without having taken a note. Ibid., page 604.



## CHAPTER XI

### LEGISLATIVE ETIQUETTE

*A very proper man.*

—MUCH ADO ABOUT NOTHING.

**I**N the preceding chapter an attempt was made to describe the offices with which a legislative assembly usually equips itself. It now becomes appropriate to direct the reader's attention to the members themselves, with a view of ascertaining what they have to do, and how they are expected to behave while performing legislative functions.

*Intercourse  
between  
members*

\* It is manifestly of prime importance that one who enters the halls of legislation for the first time should acquaint himself with the rules of deportment there chiefly in vogue.

\* There are sundry little amenities with which one desires to become familiar. For instance, it is not deemed proper, in the course of debate, for members to refer to each other by name. Such a practice might lead to personalities. Instead, therefore, of alluding to remarks as having been made by Mr. Smith, or Mr. Jones, the member who means to be *en règle* will designate the individual he has in mind by a periphrasis of some kind. He may say, "The honorable gentleman who has just



taken his seat"; or, "My distinguished friend over there in the corner"; or, "The eloquent orator who so ably represents Libertyville on this floor." There is a neat and happy way of putting these things, and one cannot too early set about acquiring it.

\* Where a member is charged with committing a breach of decorum, his attention is invited to the subject by the presiding officer in a few well-chosen remarks, after which the offender is permitted an opportunity to offer an explanation, should he happen to have one on hand. Old stagers know how to explain things away in short order. The standard method is to assume an air of contrition, and observe, in a subdued tone, that "no man's intention could have been better than mine," or that "the honorable gentleman, I deeply regret to learn, has wholly misapprehended the purport of my remarks." A word or two of apology, after some such formula as this, will commonly end the matter.

*A formality*

\* An offence, however, may be really grave. The assembly then requires something more to repair its injured dignity than mere apology. It concludes upon the whole, that justice will be satisfied by inflicting a reprimand. The "painful duty" of administering the reprimand falls to the presiding officer. The culprit (who, if the truth were known, may very likely trace his downfall to an early neglect of pious in-

*The way of  
the  
transgressor*

struction, learning to smoke behind the barn, and the like) is admonished to stand in his usual place, to receive the censure of the House; whereas a guilty party, who is not a member, is brought to the bar of the House by the sergeant-at-arms.

*Expulsion*

\* Extreme cases of disorderly behavior justify the House in imposing the penalty of expulsion. In Congress, to administer so severe a punishment requires, under the Constitution, the concurrence of two-thirds of the House. It is a penalty rarely inflicted. A member on the point of being expelled does not feel like staying any longer. The place has grown monotonous. His system craves a change. The farm, or the family at home, allures him. It occurs to him that matters and things there need looking after. The miserable being gazes around him pensively upon scenes to which he is about to bid a choking farewell. In circumstances such as these it is not unmanly to exhibit emotion, nor unparliamentary. He exhibits it. Then he collects his presence of mind, his papers and documents (not overlooking such public stationery as may be within reach) and withdraws noiselessly.

*Figure of  
speech.  
Poetry*

\* He is off. The ripple caused by his departure fades away. The clatter starts up again; and business jogs along as before. So soon are we forgotten, when we are not remembered.

“ Like the dew on the mountain,  
Like the foam on the river;  
Like the bubble on the fountain,  
Thou art gone, and forever.”

Forever indeed; unless the outcast should be chosen again, expulsion not being a personal disqualification, save when made so specially by law. The Commons in the case of John Wilkes, who was expelled and thereupon re-elected, decided that Mr. Wilkes could not be seated. Junius has been kind enough to favor us with his views upon this transaction. He speaks of it as unfair.<sup>1</sup>

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<sup>1</sup> P. S. Explanation is due to the reader that, up to the hour of our going to press, it has not transpired who Junius really was. Even the *Encyclopædia Britannica* (last edition) does not know for a certainty.

## CHAPTER XII

### HOW TO MAKE A MOTION

*Let us then be up and doing.*

—PSALM OF LIFE.

**I**T must have fallen under the reader's observation that there is a critical order of mind which shrinks from going forward unless first given a definition to cling to. For the encouragement of persons whose mental organizations are of this description, I would submit the following extract from my note-book. "Motion: A proposition made to an assembly by a member that the assembly do something, or order something to be done, or express an opinion with regard to some matter or thing."<sup>1</sup>

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<sup>1</sup> It may gratify some of us at this stage to welcome a familiar acquaintance in the shape of the following "anecdote," which has of late been making its regular round of travel through the press. Who can tell what a debt American literature owes to the "small town in Western Texas"; and will continue to owe, until the genius of invention shall think it time to remove the basis of operations to a locality still further off.

A citizen of Seguin, a small town in Western Texas, was elected justice of the peace, and the only law-book that he had was "Cushing's Manual." The first case before him was that of a cowboy for stealing a steer. When the case was called the leading lawyer of the town was there to defend the prisoner. "As there is no counsel for the other side," he said, "I make a motion that the case be dismissed." The justice looked over his manual. "A motion has to be seconded," he said. "I second the motion," promptly responded the prisoner. "The motion has been seconded that the case be dismissed," said the court; "all in favor will say aye." The prisoner and his attorney voted "aye." "All opposed will say no," Nobody voted. "The motion is carried and the case is dismissed," repeated the court. "A motion to adjourn is now in order." The prisoner made the motion, and the court adjourned to a saloon in the vicinity.

\* The right to submit a proposition belongs to all members alike. There can be no monopoly of motion-making. On the opening day of the session, however, one or two gentlemen, of apparent consequence, are apt so far to forget this truth as to take upon themselves the entire burden of starting the public business. The delusion they are under seldom lasts longer than twenty-four hours.

*Give everybody a chance*

\* Doctor Samuel Johnson, who figures so conspicuously in Boswell's world-renowned biography, has left behind him a rich legacy of remarks, and among them may be cited the following celebrated couplet:

*Literary*

"How small, of all that human hearts endure,  
That part which laws or kings can cause or cure."

The justness of the observation, I presume, will scarcely be questioned. Yet there is a class in the community, by no means small in number, who think otherwise, including, I am bound to say, many individuals who manage to get themselves chosen to seats in the legislature.

\* Holding fast to the philosophy of the great Doctor's lines, let us turn for a moment to the consideration of motions in general. A motion to carry out a proposition is styled a principal motion. When a motion is designed to dispose of a principal

*As to motions*

motion, it is termed a secondary or subsidiary motion. A principal motion should be expressed in writing, whereas a subsidiary motion may be orally made. Thus it is unnecessary, we perceive, to reduce to writing a motion to adjourn.

\* Unless the language of a principal motion or resolution be reduced to writing, an assembly would talk away with no conception of what it all might be about. Nothing would be at issue. A proposed motion has to be committed to a form of words in order to furnish a "text," as it were, and keep members within reasonable limits of debate. Similarly, an amendment seeking to change the language of a principal motion, ought itself to be submitted in writing. The motion to amend is an exception to the general rule, that secondary motions need not be written.

*In black and  
white*

\* A member who proposes to submit a motion should take pains to write legibly, unless he can get a clerk at the desk to put the wording into shape. The law favors a liberal distribution among the members, of pens, ink, paper, erasers, and lead-pencils, thus implying a capacity on the part of every legislator to write. But a representative of the people is not precluded from exercising the constitutional privilege of introducing a principal motion, or resolution, simply because he happens to be an indifferent penman, or backward in the art

of spelling. I avail myself of this opportunity, however, to remind coming generations that a statesman will stand higher in public repute, if he follows precedent when he spells, and if he evinces a disposition to conform to good usage in the matter of grammar. Plain words will do. For example, you wish to provide that a sum of money be voted as a gratuity; you can say "give"; you are not compelled to use the term "donate."

\* Commentators upon the law parliamentary agree that, in order to make a motion, a member must rise in his place, and respectfully address the Chair. In Congress, a member may get the floor, even if he rises from a seat belonging to another member, more attention being paid to who he is, than to where he is. The requirement that a member shall rise in his place before addressing the presiding officer, is founded in convenience. It might be difficult for the Chair to make out who is the individual that proposes to enlighten his fellows, unless an accustomed locality can be counted on to help determine it. In the French Assembly, a deputy goes to a raised platform or rostrum, in the front of the chamber, and there speaks his piece. The rostrum is so arranged that the orator can execute in safety those gesticulations that play so prominent a part in the Gallic method of conveying ideas.

*On his legs*

*Seconding  
motions*

\* After a motion has been read, it should be seconded with promptitude. By this is meant that a member, other than the mover, should address the chair with the phrase "I second the motion," or its equivalent. No mystery about it. A newcomer can acquire in twenty-four hours the art of seconding motions. Under pressure of business, strict formality may be dispensed with. The Chair inquires "Is the motion seconded?" and upon a member replying without rising in his place that he seconds it, the Chair puts the motion. Of late years it has not been the practice of either branch of Congress to require a motion to be seconded. Some legislative bodies, and nearly all public meetings, however, still adhere to the old custom.



## CHAPTER XIII

### PETITIONS

*So that every mortal's complaint, if it cannot get redressed, may at least hear itself complain.*

—CARLYLE'S FRENCH REVOLUTION.

WE have just observed how simple is the method by which a member puts himself into communication with the House. We have seen that a gentleman who has something to say (or imagines that he has) rises in his place, if he cannot longer keep quiet, and addresses the Chair, whereupon the Chair introduces him to the assembly. The Chair is by no means so familiar as to mention the name with which the gentleman walks the street, or registers at a hotel, or signs his bank checks. The Chair designates him politico-geographically, as it were, and informs the assembly that the gentleman from this or that town, or district, or (in the Senate) the Senator from such a State, naming it, has the floor.

\* The great talkers of a legislative body quickly discover themselves. There is a school of orators who are forever coming to the front to let the country hear from them; and they can be depended upon to start early in the session upon the work of enlightenment. After a while, let one of

these gentry get the floor for a sustained speech, and his opening sentence is a signal for a concerted movement into the lobby.

*We, the  
undersigned*

\* Occasionally the spectacle is afforded of a new-fledged statesman who conceives the outside public to be so very far outside that he need put himself to no trouble whatever about consulting their wishes. It does not take long for him to learn a little wisdom. He discovers that where his constituents have a grievance which they think a good deal of, they are apt to draw up a petition, and send it forward to him to present. The incident sets him on a train of thought, and he concludes that the subject of petitions is worthy of his distinguished and oft-repeated meditation.

*Antique*

\* Now, if there be a relic connected with parliamentary doings, that deserves the epithet of "moss-grown," it is the right of petition. Like the "pursuit of happiness" (a privilege which most of us enjoy without being aware of it), it is a right that dates from a long way back; and it is venerated accordingly. Moreover it is a "sacred" right. There are petitions in the Tower of London of the date of Edward the First. So says Sir Erskine May, and I presume that his statement can be relied on; since he had probably seen the documents with his own eyes. That the people shall be free to put ink to paper in the form of a petition, is an Anglo-Saxon idea. The

forefathers brought it over with them in the Mayflower, a circumstance that accounts for the prominence given to the right of petition in our State constitutions.

\* The objective point of a petition is, that those who sign it, wish to have the legislature do something. Or, as Grey puts it, with no waste of words: "A petition prays something. A remonstrance has no prayer." The strict rule of the law is, that it is beneath the dignity of a parliamentary body to receive a paper from the outside, which expresses opposition to a pending act, and does not pray or ask that the same be defeated. If the paper be in effect a protest, in the shape of a petition, or prayer, it is treated as unobjectionable. Though such be the nice distinction upheld by the learned text-writers, it does not appear that our legislatures have paid any considerable degree of attention to such a refinement; it being the custom throughout the United States to receive every kind of petition, if it be respectful in tone, and if from the chirography it can be made out that the document has reached the address intended.

*What Grey thinks*

\* There is more or less erudition in the books as to how a petition shall be prepared, on what substance written, how signed, and the like. In England, petitions must be written on parchment or paper; lithographed or printed petitions

*How gotten up*

## 74 THE GAVEL AND THE MACE

will not be taken in. In America it has not occurred to us to enforce so strict a rule. In our plain way, we act upon the suggestion that printing will answer well enough; and in fact, when it comes to reading, we rather prefer print. So far as I have had opportunity to look into the matter, I find that this more liberal view has not proved too great a strain for our institutions. The fact is, petitions spring up with such exuberance in our soil, that life seems too short for us to stop and peruse them, much less to enquire into their mode of preparation.

*Neat, not  
gaudy*

\* There should be no erasures or interlineations in a petition, unless they are explained on the face of the paper. Everything must be fair and above-board. If a petition consists of several sheets, each sheet should bear at least one signature, to prevent deception. The signatures must be the genuine article, and must belong where they are found. Should a gentleman happen to be not at home with the pen, he will be permitted to ornament the document by affixing thereto his mark, which should be duly attested.

*Personally  
conducted*

\* Where one can present himself before a committee in *propria persona*, he stands a better chance of having his wishes complied with, and of getting something done, than if he appear by petition merely. In the earlier days of the republic people having business before Congress preferred to

send their names, rather than to come in person, like the Gauls, to the Capitol, to hear the cackling. All this is changed now. So admirable are the accommodations at Washington, that men glib of speech are employed at every incoming train, to greet the traveller and tell him what can be done for him; electric-cars, cabs, and district messenger-boys are numerous; while accomplished guides to the Capitol are so affluent of information that no true American can afford to stay away. The petitioner may send forward his petition, and then come on himself by a later train. If he would learn how Congress seems to be impressed thereby, the proper course to pursue is to buy an excursion ticket and start at the advertised time. When he has arrived and "fixed up," he can make his way to the great white-marble building upon Capitol Hill, and tell the doorkeeper, in a husky whisper, that he is here on business. The usage is to send in his visiting-card to the member from his Congressional district. When the honorable member comes out, it is etiquette to let him shake hands warmly. He (petitioner) can consume the best part of several days in waiting to see about it (petition) and then he can go home. This is one of the many inestimable blessings to which we, who are trying the experiment of living under a popular form of government, are entitled.

## CHAPTER XIV

### MORE OF PETITIONS; AND SUCH LIKE

*They know not well the subtle ways  
I keep, and pass and come again.*

—EMERSON.

**A**S has been already said, a petition should be respectfully worded.<sup>1</sup> Fair words, it is true, butter no parsnips; but for all that a petitioner will not be likely to accomplish much, if he fail to show due deference to the honorable body he is addressing. It will not answer to apply opprobrious epithets to legislators in the document that craves their gracious intervention. So long as the language of a petition be respectful, it is no objection that it provokes a smile. When the immortal three tailors of Tooley Street sent their prayers to Parliament headed: "We, the people of England," they got laughed at all over the Kingdom, but none the less was the document taken in at Westminster, and put on file.

*It is all  
right*

\* The member to whom a petition has been entrusted should by all means look it over so as to familiarize himself with its contents. This precaution is absolutely need-

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<sup>1</sup> An intelligent jury not long since sent in a letter from their room to the Court, beginning: "To the Onard Jug." This was respectful, but not happy.

ful. The gentleman who offers a petition, acting, so to speak, as its sponsor, is held to vouch for its being expressed in fit language, and in a tone of due respect. Moreover, he is thus enabled to state briefly the nature of the paper, when presenting it, and to reply to any questions that its introduction may evoke.

\* A member who is about to present a petition rises in his place at the proper moment, with the document in his hand ; it is not material in which hand. After stating what the petition is, he moves that it be accepted. Ordinarily no one objects ; indeed, as a matter of fact, petitions are commonly received without a motion, or vote to that effect.<sup>1</sup> In the House of Representatives a member presents a private petition by silently depositing it in a box at the clerk's desk, whence it is taken and referred by the clerk to its proper committee.

*Introducing  
it*

\* What becomes of petitions? Numbered by the thousand, it is hard telling where they eventually go. According to the rules, the paper with its weight of signatures is handed to the clerk, who is popularly supposed to read aloud its contents in an impressive tone for the edification of the listening assembly. Only the clerk does

*What will he  
do with it?*

<sup>1</sup> Time was when the indomitable John Quincy Adams could throw Congress into an uproar, by standing in his place, and holding up a paper that looked like a petition. But with the wiping out of the institution of slavery, there has passed away every trace of a disposition to abridge the "sacred right of petition."

nothing of the sort. He glances at the paper, sees what it is, and tosses it on the desk, for an assistant to mark and file away. The assistant clerk enters a memorandum, and then tickets it for the committee to which it properly belongs. Then he sends it to the clerk of that committee, who straightway makes a memorandum on his books and tucks away the petition snugly in the committee's files, for whatever use the future may have in store for it. With rare exceptions the carefully prepared document slumbers for a period more or less long. What happens to it few ask, and nobody seems to know; though as throwing some light upon the question, I might venture to suggest that while life is notoriously short, official life is even shorter.

*Caution*

\* Let a motion once get fairly on its way, and the man who makes it may wish he had not started it; but it is too late. So long as a motion has not been stated by the Chair, it may be said to belong to the person making it. He may amend it, or even withdraw it, if he choose, for the seconder not objecting to such disposition is presumed to favor it. In Congress, one who makes a motion may withdraw it at any time before a vote; but this is not the normal rule of parliamentary law. Ordinarily when the Chair has stated a motion it becomes the property of the House. The



mover, his heirs, executors, administrators and assigns, lose all right, title, and ownership in and to it. A member who values his reputation will move therefore with discretion and caution, like the elephant in the summer season about to cross a country bridge.<sup>1</sup>

\* The man who moves a resolution has a perfect right to vote against its adoption. It may not look well for him to do so. Sudden conversion may seem unaccountable; but if the legislator chooses to take the step, the law will uphold him. In order that they who make our laws may exercise entire freedom of action, there is presumed to exist, up to the latest moment, an opportunity for a change of opinion. The idea is, that a member shall have the chance to see in full force any error of judgment into which he may have inadvertently fallen. The law recognizes the fact that the human mind is not infallible, even when it takes up its temporary home in a legislator. Hence the law views with composure a disposition of that mind to tremble in the balance. Again, instances are not infrequent where a member who has introduced a measure simply to please a constituent, retains a purpose of voting when the time shall

*A mover's  
privilege*

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<sup>1</sup> By the way, the youngster who waited six hours, and going off in despair, missed the passing circus by just ten and a quarter minutes, was known ever afterward as "the boy who almost saw the elephant."

come, so as to please himself. Or, in the press of public business it may have occurred that our representative is at a loss to recall upon which side of the measure he started. Perplexities innumerable surround these gentlemen, particularly when a long session is drawing to a close, and when whatever is to be done has to be done quickly.

*What a  
mover  
cannot do*

\* That historic disturber, John Wilkes, while hobnobbing once with His Majesty George III., remarked to his royal listener that, as for himself, he "was never much of a Wilkesite." The political world has not yet, that I know of, witnessed the spectacle of an agitator going about the country stumping against himself. Still, now we come to think of it, we shall find no positive rule of law forbidding such a crusade. Let a man, however, be sent to Washington to participate in the business of getting out a new volume of the United States Statutes at Large, and he will discover that after he has taken the floor and submitted a proposition to his colleagues, he will not be permitted to treat that proposition in a manner so cavalierly as to argue against it. Should a member of Congress make a motion, and then launch forth to speak against it, he would find himself quickly tongue-tied, if I mistake not, by a decision recorded years ago in one of the back numbers of *The Congressional Globe*. The mover

of a resolution may withdraw it, or he may even vote against it ; the arguments of his associates may have converted him, but it is not permitted him to debate in opposition. Under the dome of the Capitol, one may not in the same breath blow hot and cold.

\* As soon as a motion is brought regularly before the assembly, it is incumbent on the presiding officer to state it, so that everybody, even occupants of the back seats, may be afforded an opportunity to know precisely what the question is. The clerk will read the motion distinctly, if it be in writing ; or, if it be oral, the presiding officer will state it. By a rule of the House of Representatives, every motion made to the House, and entertained by the Speaker, shall be reduced to writing, on the demand of any member. The member who asks to have a motion read for his information may not be able as a matter of fact to gather much information after having carefully listened, but the law says that he at least shall have a chance to try the experiment.

*Read for  
information*

## CHAPTER XV

### OF LEGISLATORS THEMSELVES

*Where village statesmen talked, with looks profound.*

—THE DESERTED VILLAGE.

**P**ROBABLY there is not a voting precinct in the land that cannot furnish the man who carries in his breast a conviction that he would shine conspicuously upon the floor of House or Senate, if his fellow-citizens would only put into his hands the credentials to get there. Strange that local talent should be overlooked so regularly; talent to which is joined a whole-souled, unselfish devotion to the interests of the people. Ready as this individual is to surrender the comforts of private life, to lay aside business affairs, and let his creditors one and all wait while he takes up the burden of serving the state, it does seem singular that the other man gets the nomination. The coveted honor goes elsewhere. The office in seeking the man passes right by that particular individual who is prepared to start at short notice; and yet the man himself cherishes somehow a hope. Though blighted, he looks forward to a next time.

*Balm*

\* But let us not give way to pensive reflections. It is with the gentleman whom the caucus names, and whom the voters elect,

that we now have to do. The other aspirant may still rise to a point of order in his own family. For him there is the enjoyment of delights in private life to which his rival after all must remain, at least for the time being, a stranger. The truth is, he who stays at home is better off nine times out of ten than he imagines. This must be so, otherwise we would not hear our public men talking with such ardor of the day that is to witness their return to the walks of private life. Let us confine our attention, however, at present to the lucky winner of what is popularly imagined to be a prize.

\* If nothing else remained after a motion *An art* had been made, but to vote and have done with it, any man over twenty-one years of age, and of intelligence enough to sign a receipt for his pay, might be sworn in to earn the salary. But legislation involves more than this. Men of acute minds and of first-rate abilities have been known to devote years to a study of its leading principles. In order to start a measure along the desired course, one must possess tact, courage, self-control. One needs a practised eye that can watch for the arrival of the favored moment, and a steady nerve to set the ball a moving.

\* I have somewhere read that to bring a horse to water is easy. The proposition *One-horse illustration* implies, of course, that you have a horse; that he is alive, and that there is no drought

in the neighborhood. But, and this is the point, to introduce this well-known beverage into that horse's system, is a feat, whose accomplishment depends more upon the horse's inclination than your own. Now, I never owned a horse in my life, though he is an animal for whom I have always entertained a profound respect; and yet I am disposed to let myself accede to the statement as substantially correct. To apply this valuable truth to the *modus operandi* of law-making, I may be permitted to observe that you will find it no great undertaking to offer your resolution, but to induce your fellow-members to fall into line and vote for it, is quite another matter.

*Advice*

\* By evincing neither obstinacy, nor too great readiness to surrender your ground, you should meet all objections with mingled good humor and firmness. If your bill be shorn of some of the features upon which you had prided yourself, and should it take on others that you do not particularly like, you will at least have succeeded in saving much that is essential. The outcome illustrates a not uncommon experience where "half a loaf is better than no bread." That you may readily apprehend what course to pursue upon these occasions, it is the province of the law parliamentary to enlighten and advise. That is what Hatsell and Jefferson aim at; what May and Cushing aim at, and what the

present writer aims at—every one of us.  
“Let all the ends thou aimest at be thy  
country’s.”

\* I am not aware that I need offer further  
remarks upon this glittering theme.

*Enough*

## CHAPTER XVI

### SUBSIDIARY MOTIONS

*Behold, my son, with how little wisdom the world is governed.*

—OXENSTIERN.

OUR modest little treatise has now reached the stage where it becomes appropriate to deal with a class of motions known as subsidiary, or secondary motions. Not that these motions are of subsidiary or secondary importance. On the contrary, so prominent is the part they play in legislative proceedings, that they deserve scrupulous attention from all who would attain standing as parliamentarians. Let us for a few moments contemplate the nature of these motions, and the methods of their application in the actual conduct of business.

*Their  
province*

\* As I had the pleasure of remarking to the artless reader, in a recent chapter, the province of a subsidiary motion is to make disposition of a pending principal motion. Such being the case, the reader conjectures naturally that during a session of average length, a great many subsidiary motions must be made. It is my duty to announce that his conjecture is eminently correct. There *are*. The moment that an assembly consents to entertain a principal motion, there occurs to the mind of the vigilant and



astute guardian of the public interests (that means the mind of nearly everybody present, who is not absorbed in some other matter) a query, what shall be done with it? Shall I vote for this measure in the shape it now wears? Or, shall we have the phraseology changed a little, and improved? Or, had we not better defer a consideration of the subject until some day of next week? Or, why not put a quietus on the whole thing by laying it upon the table, along with sundry other bills and resolutions, to be taken up or not, at some distant period, as the wisdom of the House shall dictate?

\* These questions, and numerous others of like import, crowd in upon the legislative brain, and keep our senators and representatives on the stir. Such are the problems these gentlemen are elected to grapple with,—are paid to solve. So tremendous is the strain at times, that we cease to wonder when we hear of the Honorable Mr. A., or the Honorable Mr. B., sitting up to play poker until half-past two in the morning. Their systems need relaxation. It is dangerous to hold the mind too long upon the stretch. Hence we see how fortunate is the man who, from his mastery of the subject, has at his fingers' ends these various secondary motions, and the fine points they imply. Thus equipped, he is, as the poet beautifully observes, a "host in himself."

*The  
legislator's  
brain*

Here a copy of "The Gavel and the Mace" comes in handy.

*A word to  
the young*

\* Secondary motions are not many in number. Every young man who secretly cherishes the hope that some day he may be filling vacancies in the post-offices, vetoing bills, and laying corner-stones, in the capacity of chief magistrate of this great republic, might make a worse beginning than to commit the list to memory. It can easily be mastered in a couple of evenings. As the years roll by, he may not get further than a seat in the city council; but I can assure him that the knowledge he has acquired will not go for naught. These motions are: 1, Lay on the table; 2, The Previous question; 3, Postponement, either indefinite, or to a day certain; 4, Commitment; and 5, Amendment.

*What may  
not be*

\* A fundamental rule in parliamentary practice is, that secondary or subsidiary motions cannot be applied, one to the other. To this rule there is no exception, save that a motion to commit, or to amend, or to postpone, may itself be amended. This is one of those simple propositions that deserves to be treasured in memory; for no man is likely to become truly great in the halls of legislation, who is constantly violating the principle herein contained, never mind how telling a speech he can make when out on the stump.

\* In disposing of a principal motion, not a

few assemblies now adhere to what has long been a rule of the House of Representatives at Washington. That rule provides that when a question is under consideration, no motion shall be received, but to adjourn, to lay on the table, for the previous question, to postpone to a day certain, to commit, or amend, or to postpone indefinitely. These several motions take precedence in the order enumerated.

*A custom of  
the House*

\* Where a member finds that the rule of the House to which he belongs reads after this style, he will govern himself accordingly. The clerk, or the doorkeeper, or somebody on the premises will furnish him with a copy of the manual, and he can turn to the proper place, and find out precisely how the rule is worded. If, however, he is anxious to keep on the safe side, all that he has to do is to refrain from making any motion whatever, and then the presiding officer will have no opportunity to rule a motion of his out of order.

*Advice  
gratis*

## CHAPTER XVII

### TALK

*Neighbors, you are tedious.*

—MUCH ADO ABOUT NOTHING.

**I**N cases where a proposition laid before an assembly upon motion appears to meet with scant favor, the remedy lies close at hand. The proposition may be disposed of by an indefinite postponement. When it happens, as it frequently does, that a measure is sure of commanding the support of every member, and discussion would be but a waste of time, the previous question, for the purpose of bringing on an immediate vote, will be found to be exactly what is wanted.

*The  
Ancients and  
the P. Q.*

\* Like the mariner's compass, the rinderpest, and a large per cent. of the special telegrams of our daily newspapers, the previous question is of purely modern invention. The dark ages, it seems, had to get along as best they could without it.

*How it  
came about*

\* The earliest mention made of the previous question, we believe, is in England, where it seems to have proved convenient for putting a stop to discussions that involved the behavior of the royal family; or the conduct of the ministry, who felt sensitive at being made the subject of vulgar criticism. The effect of a decision not to

put the main question was to suppress it for the entire session. Afterward, when the form of the motion had been changed to the enquiry, "Shall the main question be now put," a negative decision resulted in suppressing it for the day only. So soon as an assembly declares itself of opinion that a question should not be put, it is a waste of breath to discuss the subject longer. The whole business is set out of the way for the time being. Inasmuch as a law of our imperfect nature, however, requires that there shall be a skeleton in every House, the bill may come up suddenly, as likely as not, on some other day, to plague the opposition.

\* An old gentleman, who has pored over the early records of New England to such an extent that he knows of little else, has been kind enough to assure me that, according to his memoranda, the machinery of the previous question reached our shores very shortly after the first settlement of the country. His theory is, that it came over in a good, reliable, slow-sailing ship that anchored off Derby's wharf, in Salem harbor, somewhere about the summer of 1634. Imported, as it was, in the midst of a miscellaneous cargo, it does not appear to have attracted at the time any marked degree of attention.<sup>1</sup> At first our grim but worthy

*Old-time  
lore*

<sup>1</sup> It is interesting to note by the way that the celebrated Pilgrim Fathers, then living at Plymouth, had brought with them several

*Double-  
barrelled*

*Must be  
lively*

ancestors did not take to it kindly. Later on, however, it appears to have grown in favor, until now it may be pronounced as firmly fixed as are our rock-ribbed hills, or our custom-house frauds.

\* In the House of Representatives one may move a resolution and at the same time move the previous question upon that motion—a neat method of dispatching two birds with one stone. The countenance of this time-saving privilege serves a little to atone for precious hours expended in speech-making.

\* Doubtless it has not escaped the attention of the reader that to the inquiry, "Shall the main question be now put," an affirmative reply may be given. If so, the main question *is* put. The tellers betake themselves to their posts, to do the counting, and the voting proceeds. So, if a representative has waited patiently for a chance to get the floor, only to see the floor as it were glide away from him, he may as well make up his mind that his stock of eloquence goes over for the time being; those glowing sentences, that fervent appeal, that more than sublime climax, will all stand adjourned. No other course is open but to change a few sentences and work off the

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questions previous by at least a dozen years; for example, in what degree is it morally sinful to stay at home from meeting on the Lord's Day, for the purpose of shooting Indians; whether a man wearing long hair can hope to escape brimstone, and the like.

MS. at a future season in some other debate.<sup>1</sup>

\* By a rule of the House of Representatives, the vote of a majority of members present, if a quorum, must be obtained to order a motion for the previous question. For some assemblies a negative vote upon a motion for the previous question suppresses the main question for the day; in others, it has no effect; it simply leaves the main question precisely where it was before. *Its effect*

\* The great writers who have hitherto dealt with this subject rank the previous question next in dignity to a motion to lay upon the table. So do I. We are practically unanimous.

\* Our neighbors across the water at London, England, are using what is to all intents and purposes the previous question, under the name of cloture, a term, imported into parliamentary law from the French. Parliament in 1882 adopted new rules in which cloture makes its first appearance. *Cloture*

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<sup>1</sup> Happy the man who can equal the readiness of a certain Ohio preacher, whose ambition had led him into the uncertain field of politics. On one occasion, it seems, he had prepared a powerful address upon the issues of the day, counting upon being called upon to preside over a nominating convention then about to meet in his county. When he arrived upon the scene, however, he discovered that the "slate" named some one else as chairman, while to him had been assigned the less stirring duty of making the opening prayer. When told what was expected of him, instead of showing disappointment, he accepted the office, merely remarking that he had got ready a ringing speech to "fire up" the brethren. "But," added he, after a moment's pause, "It's all right; I guess I can throw pretty much all of it into the form of a prayer."

It is rumored that they whose chief business it is to listen, are more than pleased with the way it works.

*Courtesy*

\* Whilst the previous question, with its short, incisive way of dispatching business, has flourished for one hundred years in the House of Representatives, no similar procedure at the present writing is known to the Senate, though the first Senate started off with a very sensible rule on the subject. Yet they are as delicate at that end of the Capitol about lingering to hear a man talk, who is not saying anything, as they are in the House. When a senator feels an inspiration coming over him, that is going to make it necessary for him to keep talking on a stretch it is understood that he will be good enough to let his brother senators hear of the program beforehand, so that those who wish, can go off on an excursion, put in an extra amount of work at the pension office, or otherwise profitably dispose of the time. The plan works admirably. But, on the other hand, there is no special provision made to meet the case of the senator who all unexpectedly has drifted into a discussion, and who seems to have lost the power of stopping himself. It has been a custom, however, since the formation of the government, upon such emergencies, for the Senate to melt away into the cloak-room and elsewhere, leaving desk and papers to all appearance ready for a



speedy return of the proprietor. The spectacle, as seen from the gallery, presents the illusion of being wholly unpremeditated.

\* We may exercise the right, I think, to conclude that we are to seek for the underlying principle of the previous question in an unwritten law of nature. Apart, therefore, from a rule to give the hint, let ingenuous youth ever cherish the reflection that there are times when he best serves the State, who stops talking and sits down. John Milton's idea, it is true, was to *stand* and wait, but I see no reason why the patriot may not resume a sitting posture.

*Morai*

## CHAPTER XVIII

### POSTPONEMENT

*Punctuality is the thief of time.*

—ANON.

**W**HATEVER may be said in general of the policy of putting over till to-morrow the burden of to-day, it is sometimes, in legislative affairs, a wise course to adopt. Before a session is well advanced, business gets crowded, and all sorts of measures, more or less urgent, stare the legislator in the face. To a remarkable degree the legislative mind partakes of the common weaknesses of human nature; it grapples with no difficulty that it can evade.

*Going over*

\* For plausible reasons, therefore, it frequently is thought best to let the consideration of a subject go over to a future day; or perhaps till a later hour of the same day. A motion to postpone forms a very useful subsidiary motion. There may be either an indefinite postponement, or a postponement to a day certain.

*Total*

\* Where the object of moving to postpone is to defeat the bill, the maker of the motion may fix upon a day beyond the usual and probable duration of the session. A motion of this character, though designed to deal a death-blow, is regarded from a

parliamentary standpoint as a perfectly innocent and well-intended motion. It is treated just the same as if the day were one within the session; a fresh illustration that parliamentary law, quite as complacently as other branches of the law, can shut its eyes sometimes to plain fact. I should fancy that an impossible date would answer the same fell purpose, as for instance the 30th of February. We in America do not follow our English cousins, and resort to so clumsy a device as a day beyond the session. We prefer a short cut. We reach a like result by a motion to postpone indefinitely.

\* A motion to postpone to a day certain can of course be debated, but upon such a topic there is really not much to be said. The question is simply whether to take this day or that, for the consideration of the bill. True, there are gentlemen gifted by nature who are able to offer a full line of remarks upon a theme even so contracted as this. They can take up a pocket calendar, and ventilate their opinions at much length as to the superiority of one particular date over another; but it must be confessed that on these occasions the scope for genuine eloquence is limited. Upon a motion to postpone indefinitely, however, the orators may come forth in full force; for the whole question is thrown open for debate—the merits, I mean, of the original measure.

*The  
difference*

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*Time*

\* It is the rotation of the earth that makes an almanac so useful. As a matter of course that particular day gets along; and when it has arrived the bill or resolution that has been waiting for it, becomes at once a privileged question. A motion to take the bill up is in order, notwithstanding the House may be upon the point of proceeding with something else. There are, to be sure, other matters more highly privileged, to which it may still have to give place, as for instance a conference report; but subject to the consideration of such privileged questions as are of greater dignity, the assigned bill has the right of way.

*Finis*

\* Here I am led to observe that the perils of a lee shore during the raging of a tempest have been set forth thrillingly by the writers of the old-fashioned sea-novel. The reader, drenched with salt spray as it were, can almost feel the shivering of the gallant bark beneath his feet, can hear the gale howling and hissing through the shrouds, see the long line of foaming breakers, and tremble at their awful roar; and so on, to the end of the chapter. Were I equal to handling a metaphor so bold, I might borrow one of these vivid descriptions, and apply it to a poor, unfortunate bill that is drifting upon the rocks of indefinite postponement. It is a fearfully awkward situation for a bill to get into. It needs not to be explained to the intelligent reader that

the moment a bill is indefinitely postponed, its career is over. It is done for.

\* To the creditor of the United States government, who has been handed over graciously to Congress for relief, the prospect of an indefinite postponement of his claim is ever present, filling his soul with wholesome dread. When weighted down by a foreboding of evil, he from his outlook in the gallery, watches anxiously Bill No. 32,497, freighted with his hopes, only to witness it swiftly hurried by a relentless current toward the fatal reef,—he (the creditor aforesaid) feels a-weary. Thoughts crowd in upon him. He rises to withdraw. Time tables, and gay-colored posters, embellish his mental foreground. Each of the great railroad corporations assures the public of its own unparalleled facilities for conveying out of Washington the departing traveller. This thought of interstatal transportation flashes into his brain. Superb trains, as he recalls it, make close connections at all points. For speed, comfort, keeping on the track, serving regular meals, and guaranteeing satisfaction in general, THIS ROUTE is the only line running parlor cars and sleepers, through without change, free from dust, heavily ballasted, steel rails, patent switches, etc., etc., “thus ensuring absolute safety, and avoiding the annoyance, discomfort, detention, and delays that infest the other con-

*A claimant's  
emotions*

*Simplicity  
itself*

cern." He believes a large percentage of it, buys his ticket, and is gone.

\* Should a member desire to consign a measure to the region of indefinite postponement, his way of going about to make the proper motion therefor is simplicity itself. He has only to rise in his place, and when recognized by the Speaker, to address the Chair as respectfully as he knows how, saying, "Mr. Speaker, I move that the bill be indefinitely postponed." If his motion be put to a vote and carried, the bill *is* indefinitely postponed; and the assembly, as it were, gambols into pastures new. If not—he subsides.

\* In the event that the Speaker does not happen to recognize him, the member undergoes postponement himself.

## CHAPTER XIX

### LAYING ON THE TABLE

*The unpremeditated lay.*

—SCOTT.

**B**Y all odds the most useful piece of furniture in legislative housekeeping, is the table. Chairs and desks to be sure have their conveniences; but if hard put to it, members can stand up; while desks are unknown, I believe, to the legislative chambers of modern Europe. According to the tales of travellers, who have penetrated that region, and returned in safety, there may be found amid the spacious halls and corridors of both Houses of Parliament, plenty of gilding, but not such an article as a desk-top whereon a statesman may hoist for a brief repose his weary feet; nothing but hard benches set in a row. \* The legislative table, however, I am obliged to explain, does not exist in concrete form. All the numerous bills, that day after day have been laid upon the table, are as matter of fact, filed away in pigeon-holes, close at hand. Motions when laid upon the table vanish, so to speak, into thin air.

\* According to ancient authority, the motion to lay on the table was originally intended to be employed "when the House

*Former days*

has something before it that claims its present attention, but would be willing to reserve the power to take up the proposition at some more convenient opportunity." With the growth of political necessities, the application of the motion has been extended, until now it is resorted to, not merely to defer the consideration of a measure for the time being, but to kill a bill outright. Once let a bill be sent to the table, particularly when the end of the session is drawing nigh, and members are packing trunks—and there is not much hope of taking that bill up again. It lies forgotten.

*Valuable  
information*

\* A motion to lay on the table is decided without debate. It cannot be amended, or postponed. "In general," says the author of *The Law and Practice of Legislative Assemblies*,<sup>1</sup> "whatever adheres to the subject of this motion, goes on the table with it; as, for example, where a motion to amend is ordered to lie on the table, the subject which it is proposed to amend goes with it." In the enunciation of these views, the distinguished author coincides exactly with the present writer. I have seen a short motion to amend laid upon the table, carrying along with it a bill involving several millions of dollars—and no perceptible jar, either. A negative decision of a motion to lay on the table, like an injunction

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<sup>1</sup> Section 1449.



to a growing boy to keep out of mischief, would be of no effect.

\* In the House of Representatives at Washington, and in many other bodies, it is customary for the member who has a measure in charge to move, after it has been passed, to reconsider the vote, and to lay that motion on the table. Affirmative action upon this last motion removes all danger of the original vote being reversed; since a vote to lay a motion to reconsider on the table, cannot itself be reconsidered; nor can the motion be taken from the table, except by unanimous consent. This is an instance where a motion to lay a motion to reconsider on the table, does not carry with it the pending measure.

*Nailing it*

\* Unless some positive rule forbid, a motion that has been laid upon the table may be taken up and proceeded with at any time, even on the same day on which the motion to lay on the table has prevailed. This action is in strict conformity with the original purpose of a motion to table, viz, to give the right of way to certain business, which may be dispatched then more conveniently, leaving the other to be brought forward at a later stage. Should no one move to take it from the table, it lies there for the entire period that the assembly sits.

*Suiting  
convenience*

\* Under the later practice of the House of Representatives, when a Senate bill comes up for consideration, it is not in order to

*Good idea*

lay it upon the table. The polite way of gratifying a disposition on the part of the more popular branch of Congress to get rid of the measure, other than by squarely voting it down, is to recommit, or postpone indefinitely. By resorting to one or the other of these expedients, a becoming show of courtesy is kept up, and the harmony that is presumed to exist between the two bodies is likely to continue undisturbed.

## CHAPTER XX

### COMMITMENT

*I will debate this matter at more leisure.*

—COMEDY OF ERRORS.

PARLIAMENTARY wisdom is accustomed to entrust to a few, rather than to "all hands" the conduct of business in what may be called its preparatory stage. A body made up of a hundred constituents or more would find itself largely at cross purposes, were it to attempt in open session to put into shape a bill needing revision. Obviously, the proper course to pursue is to send the business to the few who understand it (or who, from familiarity with the class of subjects that the bill deals with, may be presumed to understand it), and to let that select few take the subject under consideration, and report at a convenient season. By this device not only do those make the measure a subject of careful examination who are likely to be competent to deal with it, but opportunity is had for a quiet comparison of views, so as to reach a result in which all may concur. A calm and thorough deliberation in the open House is seldom practicable. The essential advantage, therefore, as we perceive, of transacting business by means of a committee, is subdivision of labor, and

time enough given for a small number of members to discuss the matter in hand with due circumspection.

*Two sorts*

\* Two kinds of committees are engaged in the work of putting into shape bills and resolutions; namely, standing and select committees. The former, composed of a fixed number of members, are appointed at the beginning of the session to continue as permanent organizations. The latter may be created, from time to time, as occasion demands, to treat of such special objects of legislation as the assembly may see fit to entrust to them. Of the appointment of standing committees, as well as of their functions, I shall have a word to offer in a later chapter.

*Importance  
of committees*

\* Nearly all the work of legislation nowadays is done in committee; for the House finds so many subjects claiming its attention, that it is compelled in passing upon individual cases, to rely to a large extent upon what a committee may say, or recommend. The House cannot look into the merits of every measure that comes before it; it must borrow the eyes of its committee.

\* The fate of a bill, we see, therefore, may not unfrequently hang upon the reference to a committee that shall be made of it. Occasionally a struggle is fought out between the friends and enemies of a measure, to determine how it shall be referred. A bill

it not usually entrusted to a committee that is avowedly hostile, provided there be another and a friendly committee that will take it in charge. A member who speaks against the body of a bill virtually announces that he is not to be made one of a select committee to consider it; for, as a quaint phrase has it: "The child is not to be put to a nurse that cares not for it." Should it be a subject over which either one of two committees may properly assert jurisdiction, and should both stand ready to take the bill (like rival cab-drivers after the same fare), the House by vote decides to which it shall be referred.

\* At the time reference is ordered, the House may instruct its committee, or it may leave them free to pursue their way, according to the best of their judgment. A committee, I need hardly add, must obey the instructions given them by the House. What would happen were they to disobey, is not laid down in the books. I am not aware, however, of a single instance of mutiny on the part of a committee, to be found indexed anywhere in parliamentary annals. Let me confess, that it affords me pleasure to testify to a record so creditable.

\* Committees usually are left free from instructions; though sometimes a bill reported from a committee will, after a discussion in the House, be sent back to the committee, with instructions to report a somewhat

*Instructions*

different measure. As a rule, however, assemblies sustain the action of their committees, and this is particularly the case where a conclusion has been reached unanimously after full deliberation.

*Reports*

\* Under the committee system the advantage of working by majorities is to be seen at its best, a majority having power to decide upon measures submitted to them for action, and the result so attained standing as the conclusion of the committee. The chairman, or some member of the committee designated for the purpose, returns to the House the bill, or resolution, and accompanies it with a report, ordinarily in writing, which sets forth the action they have agreed upon, and the reasons therefor. The report is usually printed, so that each member of the House may have a copy.

*The few*

\* In this world of sin, of suffering, and of minorities, people do not always agree. So in cases where a committee have failed of unanimity, there is permitted to those who cannot subscribe the report, the privilege not only of dissenting, but of preparing a report of their own. This recognition of the right of a minority has been of late years engrafted as a custom, a "minority report" (as it is called) being received by courtesy of the House. It must be confessed that the minority sometimes contrive to bring forward the better argument.

The document, however, is strictly no report at all; nor is it treated as privileged in a parliamentary sense, but like a poor relation at the board, it is tolerated, not welcomed. Upon measures involving political issues, committees are expected to divide upon party lines. They will probably continue to do so until the arrival of the millennium is officially announced. It is to be remarked of a minority that they can be counted upon at all proper seasons to maintain their stand with sturdiness and vigor. They make up in activity and adjectives what they lack in numbers; and never more so than when engaged in the congenial duty of "denouncing" the action of the majority.

\* A committee derive their authority from the orders of the assembly. They cannot, therefore, change by amendment the form of a proposition that has been sent to them, unless the subject be referred as well as the form of a measure. In the latter case, the committee may go to work upon a bill, and so change its features that even its intimate friends would be at a loss to recognize it. Or, if they so determine, they may report back a substitute that has no likeness whatever to the original proposition. Such are the plastic powers of a committee.

*Their  
powers*

\* You may amend a motion to commit. Or, you may change the reference, and substitute therefor a different committee; or,

*Liable to  
amendment*

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if you choose, you may have the number of those who compose the committee changed; or, you may add instructions, in order to make it plain sailing for the committee.



## CHAPTER XXI

### AMENDMENT

*I see a good amendment.*

—KING HENRY IV.

WE are now come to deal with the motion to amend,—a motion fruitful in rules and precedents. There is something peculiar about this motion; and that is,—so easy does it seem to set a motion to amend in operation, that everybody fancies that he is just the man to take the matter in charge. The civilized world, indeed, is so made up that pretty much everyone of its inhabitants thinks himself competent to draw up and offer a “little amendment.”

\* A deep-seated and a well-nigh universal sentiment of our nature is this conviction that we can improve upon the work done by another's hand. As to the converse of the proposition, that another's hand can improve upon *our* work, there may be room to doubt; but depend upon it, any suggestions coming from us are sure to be precisely what is needed. Nor is the race yet extinct of those who

*Psychological*

“Will never follow anything  
That other men begin.”

Small wonder is it then that a bill is obliged to run the gauntlet of amendments. Some amendments are conceived wisely; others, not. Instances are by no means rare, we shall find, where a change in phraseology, or the addition of a few words, adopted with little thought at the time of their true significance, or under a wrong conception of their legal effect, is engrafted into the law, only to work mischief, and in the sequel, consummately to plague the inventor.

*Better go  
slow*

\* This outcome is in part to be attributed to the haste with which the final wording of a bill is sometimes agreed to. A proposition to amend may appear on the surface to further the purposes of the bill. It renders the language more explicit, or provides for a condition of affairs apparently not before thought of; but as debate proceeds the newly proposed words turn out to be a clog and a hindrance. Or, at the last moment, in order to overcome somebody's objection, an amendment seemingly harmless, is tacked on by unanimous consent, and the bill gets its final vote.

*Decapitation*

\* If a member feel bloodthirsty, and cannot restrain himself, he may move to strike out the enacting clause of a bill. Should the motion prevail, the vital part of the bill is gone. A bill without an enacting clause is of no earthly use to anybody; it is only so much waste paper. The same may be

said of an enacting clause without a bill. A motion to strike out the enacting clause has precedence, in the House of Representatives, of a motion to amend.

\* To the young but ambitious statesman, *Storm signal* who, after he has taken his seat at the people's bidding, is impatient to "figure in the fray," it may be well to offer here a single word of caution. Be not over-hasty about meddling in this somewhat perilous business of moving to strike out an enacting clause. Unless you have been chosen to make the motion, and have the votes behind you, it is better at this point to look wise and keep quiet. This unpretending treatise of ours aims to supply nothing else than a concise statement of what legislative rules and practice really are; but while doing this, it can at rare intervals drop a seed of wisdom by the way-side.

\* The reader will learn to his satisfaction that an amendment may be itself amended. *Must stop somewhere* This is no new-fangled doctrine. Our fathers practised it. Not a legislative assembly in the known world, however, has sanctioned an amendment to an amendment of an amendment. Nor is the reason far to seek. Such a privilege could not escape abuse. The door once thrown open, daring schemers might go on piling amendments to an amendment of an amendment, upon amendments to an amendment of an amendment—up to such

a dizzy height of top-heaviness that the entire fabric would totter and tumble with stupendous crash to utter ruin.

*Wait*

\* Another imperishable principle for which our revolutionary sires fought, bled, and took continental currency, is that a bill cannot be amended on its first reading. At least, this is true of our national House of Representatives and many of our State legislatures.

*Starting  
right*

\* A long-established canon of parliamentary law enjoins that when a bill, resolution, or motion, is to be amended, the work shall be begun at the beginning; and if there be several paragraphs, each paragraph shall be taken up, and considered in succession. Beginning at the beginning, let me remark, is a habit that cannot be too warmly praised. Some of our most successful business men have acted in accordance therewith. You may have heard them mention the fact, occasionally.

*Frontispiece*

\* A preamble may be defined as a sort of introduction,—an overture, so to speak, to a resolution. It sounds the key-note. Inasmuch as a resolution may be modified to a considerable degree by successive amendments, it is usual, in cases where it requires alteration, to wait until it has been passed through the amending stage before shaping anew the preamble. The way it is done is as follows: The clerk first reads through the paper to be amended—a ceremony that

the clerk relishes ; the longer the paper, the more he seems to be pleased. Then the privilege is given to the clerk of taking up each paragraph, and reading that by itself. The House amends it here and there, as it sees fit. Finally, the Speaker puts the question on the whole paper as amended. Thus by paying strict attention, and keeping an eye fixed on the reading-clerk, a member not in the secret may comprehend possibly what is going on.

\* Should a committee, upon reporting a bill, recommend amendments thereto, the clerk (as soon as the bill is taken up) first reads through the several amendments. Then the presiding officer directs the clerk to read each amendment by itself, after which he separately puts each to a vote. The House may amend the amendment, but no new independent amendment to the main question is yet in order. As soon as the presiding officer has thus disposed of all the amendments reported from the committee, he gives an opportunity to members eager to display their ingenuity at bringing in new amendments. Finally, when all this is through with, he puts the question upon the entire bill.

\* The House of Representatives of the United States maintains yet another rule, well calculated to preserve our liberties, and to hand them down unimpaired for generations to come ; and that is, that no

*Steering**Riders*

*An  
illustration*

amendment by way of rider shall be received to any bill on its third reading. One sees at a glance that this is as it should be. A free people want no rider on their bills,—on their third reading. The rider on the ten-dollar national-bank bill, is De Soto discovering the Mississippi; at least he used to be there, the last time I saw one.

\* While an amendment is pending, it is proper to speak of it as a "pending amendment." Of course, it cannot be "pending" until after it has been offered. This simple explanation will, I trust, throw a flood of light upon a phrase of frequent occurrence in legislative reports, and in newspaper paragraphs, that I dare say has puzzled the casual reader (and possibly other readers not casual), namely, "Pending the amendment, the House adjourned." Nothing gives me greater pleasure, I may add, than to clear up, one after another, these little mysteries that abound in the reports of legislative doings.

*A contrast*

\* Most men have an opportunity in various ways to amend their habits; but curiously enough there are only three ways in which a motion can be amended, viz.: By adding new matters; by striking out; and by substitution. Yet statistics will show that a much larger percentage of motions get amended than of men's habits. Here is a fact about which Social Science ought to get somebody to prepare and read a paper.

## CHAPTER XXII

### MORE ABOUT AMENDING

*Again.*

—MR. BURKE'S

Reflections on the Revolution in France.

THE main object of amending a proposition is, as we have already seen, to put it into a better shape. We look naturally, therefore, for an amendment to accord with the proposition in respect to which it is offered. We expect it to aid in making the purport of that proposition more distinct. The task of improving the original form of a measure, we would imagine, would be left entirely to those who profess to be its friends. Such indeed is ordinarily, but by no means always, the case. We must bear in mind that a motion when once made belongs to the assembly, and that it may fall into the hands of enemies as well as friends. Even the humblest and most obscure member of the body has a right to try his hand at altering it. An evil-minded opponent may move to amend so as wholly to change its meaning; he may propose to interpolate words which, if accepted, would so transform the original proposition that its friends would be driven to vote against it. In fact, under the manipulation of a skilful

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and remorseless parliamentarian, a measure may become, as the late Mr. Burton, in his great impersonation of Captain Edward Cuttle, with a moral wave of his hook, used to say of the conduct of a child who, after having been trained up to go in the way he should, had attained the requisite age,—"on the contrary, quite the reverse."

*A liberal  
view*

\* Legislative bodies do not look favorably upon any rule that curtails the useful power of amendment. They prefer that up to the last moment the way should be kept clear for a change in the wording of a proposition, or in the methods by which it may be disposed of. To A. it may occur that the business ought to go to a different committee; or B. may be struck with the fact that the postponement is set for an inconvenient hour. In every such case, it is manifestly an advantage that an amendment may be brought in, like the rich uncle in the last act, to set things to rights. Most assemblies are disposed to encourage this freedom of action, since it facilitates the transaction of business. Generally speaking, to amend is to alter the form, rather than the nature of the original motion; for Snug was none the less plain Snug, the joiner, though he wagged an amendment in the shape of a lion's tail.

*A fact!*

\* But you may not amend the previous question, nor a motion to lie upon the table. Each of these two motions stands or falls



by itself, unique, unchanging and unchangeable. Party strife and blind ambition may attempt the experiment of hawking at it, the King himself may whistle around it, but the man does not live who can amend it, and not be out of order.

\* Not to pursue the subject further in detail, lest I might fatigue the reader, I would observe merely that while a motion to amend is itself subject to amendment, it resembles a tax-bill, in that it cannot be indefinitely postponed. Nor can the previous question be sprung upon an amendment. I would be pleased also to impress upon the minds of the youth of America that this motion is secure against being laid upon the table. It must be met squarely and voted upon, to the exclusion of other methods that might have been brought forward just as well at the first. The main question, however, may, while an amendment of it is under consideration, be postponed to a day certain; and when the date comes around, the amendment will be found as alive as a toad in a rock. The main question likewise may be referred to a committee, because that body can take it and the amendment together, into their distinguished consideration.

\* Many assemblies have laid down the rule that no motion or proposition upon a subject different from that under consideration shall be admitted under color of

*A few more  
fragments*

*One thing at  
a time*

amendment. The reason for this restriction is, that the House does not propose to be led a wool-gathering. The House is quite right.

*Gone*

\* It may be useful to bear in mind that after a proposition is amended, its maker has no right to withdraw it. Like the nickel which under a passing impulse you have just dropped into the slot,—you may become the lawful proprietor of an article you do not want, but you do not get your nickel back again.

## CHAPTER XXIII

### DIVISION

*All Gaul is divided, etc., etc.*

—CÆSAR'S COMMENTARIES.

THE problem of dividing a legislative measure into parts presents to the inquiring and candid mind certain features worthy of careful consideration. Of course, it sometimes happens that a proposition when first offered is composed (like a proprietary article at the drug-store) of various ingredients; and the assembly is not prepared to swallow it as a whole. Accordingly some one makes a motion to divide the proposition into questions, to be dealt with singly. In order to determine whether a proposition is susceptible of division in a parliamentary sense, the proper course is to divide it, and note the result. If the parts are entire and complete by themselves, the division will be allowed. While highly desirable, it is by no means necessary that the divided parts shall make sense; for more than one enactment gets as far as the statute-book without answering that requirement. But should one of the parts be fragmentary and incomplete, it follows as a logical result that the division cannot be sustained. An assembly may, if it see fit, approve of one

part, and disapprove of another. The correct method of accomplishing a division, we observe, therefore, is to make a motion to divide the bill thus and so, describing each part by itself.

*Right to  
divide*

\* It was formerly taken for granted that a member had the right to have a complicated question, which is susceptible of division, resolved by division into its several parts, so that he could enjoy the gratification of voting separately on each part; and this, too, on his mere demand. But with the wider diffusion of knowledge, it has come about that the learned writers now entertain the conviction that there is no such right. It seems that the House of Commons had the question before them in 1770, during one of those lively disputations engendered by the habit that John Wilkes, Esquire, about that time had contracted of appearing, disappearing, and re-appearing as a member from Middlesex. The right to such division was ably argued; and the House by a decided vote reached the conclusion that it could not be permitted to a member to exercise the privilege as a matter of right. But Congress by special rule provides, that if a question include propositions so distinct that one being taken away a substantive proposition remains, a member may demand a division of the question before it is put. Thus we clearly perceive that after all the world moves.

\* Upon introducing a bill, it is not infrequently found convenient to leave certain spaces blank, to be filled by the assembly with such names, dates, amounts, etc., as it shall in its wisdom deem proper ; much as a stone-cutter will fashion gravestones for his ready-made department, with a " Sacred to the Memory of," and adding a few conventional virtues—such as relatives will not grumble at the estate's paying for,—come to a halt. To fill up blanks in a bill requires a motion, unless the addition be in the shape of a new provision, in which case the effect is reached through an amendment. Usually several motions are made, comprehending the respective numbers, amounts, and so forth, to be filled in, before any one motion is put to the question.

*Filling  
blanks*

\* On this side of the Atlantic, the usage prevails to put first to the question the largest sum mentioned, and the least time ; whereas the English practice is just the reverse of ours. Possibly it is because America spends more money, and takes less time in doing it, than John Bull.

*Ours and  
theirs*

\* The matter contained in two propositions may be brought into a single measure, by rejecting one proposition, and adding to the other in the form of an amendment. Sidney Smith, it will be remembered, advises the young writer to draw the pen through every other line, as a means of imparting vigor to style ; which, of course, the

*Smith*

young writer never does. Few will question that terseness is greatly to be desired in framing bills.<sup>1</sup>

*Patchwork*

\* Should it become necessary to transfer a paragraph to another part of a bill, a preliminary motion is made to strike it out, and then a second motion to insert it in the place desired.

*A sudden spasm*

\* There are occasions when a member, after moving a resolution, is seized with a desire, for some reason or other, to modify its terms. Out of courtesy he may be permitted to change the language, just as if the resolution actually had belonged to him. Strictly speaking, however, a motion once put by the presiding officer becomes the property of the assembly; and a change of wording can be effected only upon motion. Gentlemen would do well, therefore, to get their motions into the exact shape that is wanted before they offer them. It is more business-like.

*A massive truth*

\* When a proposition to amend by inserting a paragraph is made, the proposition

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<sup>1</sup> It is related of General Zachary Taylor, while serving his country in Mexico, that he was once outnumbered by Santa Anna's army in the proportion of about four to one. The Mexican general thereupon sent a polite message to the American camp, demanding a surrender. Taylor glancing at the communication went on eating his dinner, simply remarking off-hand to an aide: "Give him General Taylor's compliments and tell him to go to —." (Here opportunity offers to "fill a blank" with the name of certain headquarters, not unheard of in military circles.) "Put that into Spanish, Mr. Trist." Herein Old Rough and Ready exhibited a quality that would have ensured him success at the business of drafting bills.

itself may be amended by striking out and inserting, or by inserting simply. This seems to be one of those shining truths that cannot be impressed upon the rising generation too firmly. Our young men, I should say, ought by all means to be taught betimes to strike out for themselves. If a member who desires to amend an amendment by inserting words therein, waits until after the question has been taken upon the amendment, he will discover to his chagrin that he is left in the lurch, inasmuch as the effect of a decision either way upon the amendment is to prevent future alteration.

\* To those who have a fondness for dabbling in amendments, there are perhaps few exercises more attractive than striking out and inserting all in one motion. It is a quick way of accomplishing what might require otherwise two distinct processes. The motion is to strike out certain words, and to insert others in their place. For instance, a debating society has a resolution before it to the effect that a "printing press is the fittest emblem of an advanced civilization." A member, with a view to improving matters, moves to strike out the words "a printing press" and insert (what it is always a pleasure to insert) "a cork-screw." Should the assembly prefer to pass upon the two questions in a divided form, they can do so, either by their vote, or upon the

*Striking out*

request of a single member, if there be, as is often the case, a special rule to that effect.

*Not hopeless*

\* A motion to strike out and insert may be designed to make the original proposition read better, though occasionally it is employed to defeat it altogether. When used for the latter purpose, it is capable of various modifications, so that the mover, if he fail of a majority at the first, need not fold his hands, and give up the task in despair. Opportunity is yet left for him to distinguish himself.

*A vista of possibilities*

\* He may move to strike out the same words and (1) insert nothing; or (2) insert other words; or (3) same words with other words. Failing this, he may smile still and appear undismayed; for it is open to him to move to insert (4) a part of the same words with others, or he may move to (5) strike out the same words with others, and insert the same; or (6) strike out a part of the same words with others and insert the same; (7) strike out other words and insert the same; or (8) insert the same words without striking out anything. After ranging through this entire series, if he remains unsatisfied, it must be that he is hard to please.

*A restriction*

\* But suppose the motion to strike out certain words and insert others be carried, it is not allowable afterwards to insert the words stricken out, or a part of them; or to



strike out the words inserted, or a part of them. If it were, the assembly might be made sometimes to eat its own words, which, of course, it can hardly be expected to do. The member who approaches the subject candidly learns that he can try and live during the session by the following rule: It may be moved (1) to insert the same words with others; (2) to insert a part of the same words with others; (3) to strike out the same words with others; (4) to strike out a part of the same words with others.

\* The indefatigable reader who has accompanied me through these intricate passages of the law, must feel himself fully prepared for revelations still more inexplicable. He is implored to receive in as calm a state of mind as possible the intelligence that an amendment by striking out and inserting may itself be amended in three different ways; both in the paragraph to be stricken out, and in that to be inserted, by striking out, by inserting, and by striking out and inserting. Let there be no mistake about this.

*Timely  
observation.*

\* I do not feel like complicating matters by adding a word of my own to what has been stated. But I consider it a duty to those who look to this standard work to guide their footsteps aright, that I should explain how members are expected to find out what it is they are asked to vote upon, when the

*A last word*

House has reached the somewhat arid region of which the present chapter attempts to treat. Upon a motion to amend, by striking out certain words and inserting others, the Chair first causes the whole passage to be read as it stands; then the words proposed to be stricken out; next the words to be inserted, and lastly, the entire text as it will read if amended. By a rule of the House of Representatives, at Washington, a motion to strike out and insert is, like the Union of States, indivisible. Some of our State legislatures, on the other hand, provide by rule that the motion shall be treated as divisible. This interesting fact not only demonstrates what a great country we are living in, but proves that the practice on this point is very much a matter of taste, after all.

## CHAPTER XXIV

### PRIVILEGED QUESTIONS

*What's trumps?*

—POLE ON WHIST.

A PROPOSITION submitted by a member to the whole body in regard to a subject under consideration, is termed, as we have seen already, a motion. When once a motion has been made, and is before the assembly, no other can take its place, unless it be an incidental question or motion.

\* Privileged questions, as the term is employed by a legislative body, are so called because they take precedence of the main question. They are of four kinds: *First*, motions to adjourn; *second*, motions relating to the rights or privileges of the assembly; *third*, motions for the order of the day; and *fourth*, the presentation of a conference report.

*Take the lead*

\* The motion to adjourn is one of the oldest motions known to the law. Its origin (so they say at the British Museum) is lost, together with a good many other things, in the obscurity of the past. This circumstance is unfortunate in the eyes of those indomitable spirits who want to feel sure about the precise date when everything that is now a going was originally started.

*Adjourn*

All that can be safely stated is that somebody at a very early period must have seen in the motion to adjourn a happy expedient. If there ever were a time antedating the existence of this motion, people then living must have possessed extraordinary powers of endurance, for when a gathering took place, it could not have been dissolved, except by a steady dropping out of one man after another. So gradual a process seems, however, almost out of the question,—the question of adjournment, I mean. But never mind its origin; it is enough now to say that the motion to adjourn is, and always has been, the most popular motion on the list. No visitor can go in and out of a State House repeatedly during a session, without being impressed with the fact that this motion is a fresh and beautiful illustration of the one-touch-of-nature theory.

*S matters of  
learning*

\* There appears to be an error prevalent in respect to the universal application of the motion to adjourn. There are occasions where a motion for an assembly to adjourn is not in order. The House has just voted on a proposition to adjourn, and has decided it in the negative. A second motion to adjourn, then and there made would be ruled out of order, for it is not to be presumed of a body made up of wise and discreet material that it will veer around so suddenly. In these circumstances the rule

applies, that some business must intervene, and be transacted, before a new motion to adjourn will be in order. Again, a motion to adjourn cannot be made while another member is speaking, however reconciled the House might be to a program that would relieve the gentleman from further exertion. Nor can the motion be made after another question has been put, and while the House is actually engaged in voting. In order to make the motion to adjourn, one must regularly obtain the floor. Still it may be written in large shining letters that a motion to adjourn takes precedence of all other motions, except that the presentation of a conference report is always in order in the House of Representatives.

\* That it may acquire a privileged character, the motion must be simply that we do "now adjourn." If the motion be to adjourn to a particular place, or until a particular time, it loses its privilege, and takes its chances like any motion involving a question of expediency. A simple motion to adjourn is not debatable; but when the program is to adjourn until Monday, or adjourn till twelve o'clock, somebody may be seized with a desire to inform his fellow-members why Tuesday is a better day, or half-past eleven o'clock a more suitable hour. However dreary it may be to listen to the author of these suggestions, the law

*That and  
nothing more*

parliamentary tells us that the subject as thus presented is capable of discussion, even though the man on the floor be incapable of discussing it.

*The double-quick*

\* A further peculiarity of the motion to adjourn is, that it must be put immediately. It cannot be amended, except in the case where no business is before the assembly; then, and then only, is it open, like other motions, to amendment. For the law, conceiving that where no business is in hand, the best known device to keep members out of mischief is to adjourn them,—views with undisguised favor a step that promises to hasten a result so desirable. But when the House has refused to adjourn, it is not in order to move to reconsider the vote. The time of a legislature is too valuable to be spent in trying to see whether the House will not forthwith change its mind, after having decided to stay and transact business. Grave and reverend seniors are to be taken at their word; and some business, as I have said already, must intervene. I repeat, therefore, that a motion to adjourn (like that indescribable motion the traveller experiences on the deck of an ocean steamer) cannot be reconsidered.

*Wide awake*

\* Any one who is keen to note numbers, may succeed in having his name mentioned in the proceedings if he only watch till he sees that less than a quorum is present. He

must then jump up and move to adjourn. He cannot jump up, and move to take a recess, since that particular motion would not be in order.

\* When it seems impossible for an assembly at one sitting to finish the work on which it is engaged, the usual plan is to fix seasonably in the proceedings the hour at which an adjournment shall take place. Like getting in your winter's coal in July, or securing orchestra chairs well down to the front three days in advance, it is a praiseworthy method of avoiding hurry and confusion. A merely temporary suspension of business, without an adjournment, is called a recess; and a motion for the purpose is privileged, and not debatable. Sometimes the legislative day is kept up right along through the almanac, until the measure is disposed of by final vote, so that the journal shows but one day, continued by means of a recess, while the world outside have been enjoying several days of the ordinary kind.<sup>1</sup>

\* The King prorogues Parliament; that is, by his royal authority he suspends the sittings of both branches, to be resumed at a future day. This is a prerogative of the throne. Not having a king in our scheme

*Time by the forelock*

*Prorogation*

<sup>1</sup> The longest day on record hung over the country during the "electoral count" of 1877, in the second session of the Forty-fourth Congress, when the "legislative day" of 1st February, 1877, ended at twelve o'clock noon, of Thursday, March 1st. House Digest, 51st Congress, page 444.

of dealing out the offices, we have made shift to get along without a means of being prorogued, except what our various legislative assemblies by joint action can do for themselves. The Federal Constitution comes to the rescue in a slight degree, however, where it confers upon the President power, in the event that both Houses of the Congress should disagree with respect to the time of adjournment, to adjourn them to such time as he shall think proper. Another provision restricts either House from adjourning for more than three days, without the consent of the other; or to any other place than that in which the two Houses shall be sitting. Our forefathers, it would seem, were minded that their posterity should be spared the spectacle of one House hunting over the country to find the other, which state of things, however beneficial in the sale of newspaper extras, might prove detrimental to the best interests of the people; as well as disastrous to the hotels and boarding-houses of the National Capital.

*Hours of  
getting to  
work*

\* A good while ago, when manners and customs were more primitive than now, Parliament used to begin its sessions as early as six or seven o'clock in the morning; so as to let the parliamentarians get through in season to go home by sundown. This arrangement of the time-table, it is obvious, effected a saving in the item of



candles. Whether every M.P. brought with him his dinner-pail, so as to shorten the intermission at noon, history fails to inform us. Sometimes no doubt it happened that the whole body became so interested in wrangling over a bill, that no one wanted to leave off as it grew dark; and hence a motion prevailed to bring in candles. This motion we may be sure was the equivalent of a motion to prolong the debate. We learn that in 1717 the Commons adopted a standing order, which is still in force, that candles be brought in. This has been acted upon since, without passing any order to that effect. It is interesting to observe how generally assemblies on this side of the Atlantic follow the precedent; for men, whose business it is to take care of the hall, go around on dark afternoons and turn on the gas, or electric lights, without so much as a member's making a speech, or asking for a vote.

\* The effect of an adjournment upon business pending at the time, is provided for generally by rule. In Congress, it is in order, at a certain point in the proceedings, to call up for consideration the unfinished business upon which the House at the hour of adjournment may have been engaged. Otherwise, if a motion to adjourn passes, the pending question is suppressed and removed from the assembly, so that if renewed, it must be brought forward in the

*its effect*

usual way, as if it had not been taken up before. Occasionally the friends of a measure will secure an adjournment for the express purpose of gaining time in order to arrange plans to have the bill passed on the morrow, its opponents to be seen in the meanwhile, and some of them won over to its support; or persuaded at least to slacken their opposition. As a usual thing, the effect of final adjournment is to let the country breathe more freely, a legislature never being so harmless as when it stands permanently adjourned.

*Winding up*

\* In the natural order of events, an assembly must reach at last the end of its lease of life. All the honorable members who live long enough become some day private citizens, like the rest of us. An adjournment "for good," it is usually termed, as indicating the satisfaction with which the public at large regard it. Persons accustomed to the use of Latin are apt to speak of an adjournment as being *sine die*. This means "without day." When the day that has been fixed for a final adjournment arrives at last, and the assembly expires, members reach out instinctively for stationery, and such other perquisites as may be lying around unappropriated, pack their valises, bid each other good-by, regardless of politics, and start for the railroad station. Every one feels that he is wanted at home, to explain what they have accom-

plished, and what they haven't,—the latter particularly.

\* The chamber is at last deserted. The walls that but yesterday echoed with the tones of fierce denunciation, or of glowing eulogy, now stand mute and silent. Here and there one may discern—but why embark upon an attempt at fine writing? The regular corps of newspaper correspondents do it infinitely better, putting in just the requisite amount of pathos, together with those delicate touches of imagination, for which the public look so eagerly, and get so regularly. Practice enables a newspaper man to embellish his description of the last night of the session of Congress in a style inimitably his own. Such brilliant work is it, that the reader is lost in wonder, particularly the reader who has kept vigil in the gallery, and who does not recall having seen anything of the sort,—a sure proof of genius in the reporter.

*Word  
painting*

## CHAPTER XXV

### A TALK ABOUT PRIVILEGE

*Dost thou not suspect my place?*

—DOGBERRY.

A PRIVILEGED motion which for the time being supersedes all others (except the motion to adjourn) is that relating to the rights and privileges of the assembly, or of one of its members. It is to be observed that from the first it has been the unvarying custom of the members of a deliberative body to consider themselves of no small consequence. They feel it a duty to magnify their office. Constituents expect it. By the unwritten law, for instance, the moment a man steps out of private life into one of these positions, he is to be addressed through the mail as "Honorable." Could we gauge the precise quantity of respect that belongs officially to a single one of these "Honorables," and multiply the same by the whole number of seats, we might approximate a result capable of being expressed mathematically. It would enable us to comprehend perhaps of what transcendent importance all questions must be that involve the rights and privileges of members, whether taken individually, or as a body of dignitaries. An enquiry of this nature is termed

a question of privilege. It may be raised at any time; and if the presiding officer decides it to be well taken it has a clear right of way. All other business must stand aside to let this momentous question be agitated.

\* Much of the freedom and vigor that should attend the actions of a legislative assembly is due to the readiness with which it can be counted on to uphold and defend its privileges. The public behold gratefully a display of this spirit by its servants upon proper occasions. It sees that the privileges of the assembly is but another name for the rights of the people. That fraction of the public which occupies the gallery is sure to look down approvingly, as the House lays aside other business, and with more or less bustle proceeds to vindicate those rights.

*The people's  
right*

\* It is apparent that no special rule can be laid down in advance to determine what shall, and what shall not, constitute a question of privilege. Every cause of complaint must be judged by itself, upon its own facts. A presiding officer ought to hold fast to all the calmness he can command, and determine the case as fairly as possible.

*A medley*

\* That an assault, made by one member upon another, raises a question of privilege, nobody doubts. I do not mean an onset of words, but a vulgar, corporal assault,

*Assault and  
battery*

where it may be said that the defendant with force and arms, then and there, with great violence, did beat, bruise, wound, and ill-treat the plaintiff. To the credit of legislatures, be it remarked, such scenes are of extremely rare occurrence. In fact, one might sit in an assembly for years, and not witness anything of the kind. Still, it is proper that the student, who aims to acquire a comprehensive knowledge of parliamentary practice, should learn what is the appropriate procedure in such cases. The first step then, let me impress upon him, is to separate the parties. This done, it is well perhaps, should signs of serious injury be observed, to send the unfortunate man home in a hack, and have the doctor summoned at once. As for the remainder of the procedure, the House will pursue the usual course.

*Scrimmage  
continued*

\* So a hand-to-hand encounter between reporters in the presence of the House is highly obnoxious; an offer to bribe a member; an offer to shoot a member, giving him nominally a similar privilege in return, *i.e.*, a challenge to fight a duel; a refusal by a member to take his seat, when the Chair orders him to do so; violent and threatening language used toward a member in debate,—all these are considered to give rise to a question of privilege that has to be looked into on the spot. The report of a Committee that a witness refuses to answer

a proper question put to him by the Committee is privileged.<sup>1</sup>

\* The most frequent phase of the question of privilege presents itself when a representative of the people, as soon as the clerk has finished reading the journal, gets the floor, for a personal explanation. The distinguished gentleman, we are to understand, is to the last degree jealous of the rights of his constituency, and of its untarnished honor. Were his own fair fame alone concerned, he might suffer the base calumny to pass unnoticed, but the duty he owes to those whom he has the honor to represent on this floor, Sir, will not permit him to remain silent. This seems to be the way he feels about it. *A vindication*

\* He voices these lofty sentiments in a tone so solemn, and follows them up with a pause so utterly impressive, that to one who has not heard the same thing before, it appears as if a crisis in the affairs of the nation had arrived. Entrenched in his virtuous purpose, he sends to the clerk's desk a newspaper clipping, and he asks the Speaker to have the goodness to direct the clerk to read "with due emphasis and proper accent," the extract from a certain sheet (naming it) *List, oh, list*

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<sup>1</sup> Newspaper reporters have been ordered into imprisonment by the Senate of the United States for the offence of sending to their journals for publication copies of certain documents that were official secrets, such as treaties and the like. These hardships marked the latter half of the nineteenth century.

that reflects upon him,—upon him in his official capacity—aye, as an occupant of a seat in this honorable House,—with terrific stress upon the word *House*. By the exercise of an exemplary self-control the gentleman, at whom the entire gallery is now gazing, restrains himself until the clerk has recited the obnoxious article, of which, it is safe to say, not half a dozen of those present had ever before heard a word. This accomplished, the injured statesman proceeds to repair damages. He frees his mind.

*The storm  
rages*

\* It is a question of privilege he is working under. He repeats slowly the slanderous article, word after word, and treats the House to a running comment thereon. He denies. He denounces. He explains. He throws his arms about. His voice quivers with indignation. He winds up by hurling back with scorn something or other into somebody's teeth. Then having gotten through, he takes his seat, and no one is killed. Whereupon his countenance gets back its usual placidity, heightened somewhat by a radiance that comes of the consciousness of duty well performed. He retires to the cloak-room to receive the handshaking of admiring friends,—the hero of the morning hour. Business resumes.

*Getting even*

\* It is by no means every newspaper vilification of a member that entitles him to constitute himself a central monumental



figure by rising to a personal explanation. If it were, little time would be left to pass appropriation bills, and transact the rest of the public business. An attack must be upon a member in his representative capacity affecting his reputation, and charging him with improper conduct, or motives, in respect to pending or proposed legislation. The member who is fortunate enough to have an ungrounded charge of this character set in circulation in his district, will not be slow to seize the opportunity to roast his traducers. I think "roast" is the appropriate word. It may not be elegant, but it conveys the idea.

\* The presence of a mob with intention to overawe the assembly is, of course, very irregular. Likewise, it is highly improper to obstruct a member who is making his way to or from the House. Even a cab or electric-car has no right to run over him, while Congress is in session. Such misbehavior is to be classed with breaches of privilege.<sup>1</sup>

*Breach of  
privilege*

\* Though a matter of privilege supersedes

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<sup>1</sup> One of the most celebrated disturbers of Parliamentary tranquillity known to history, was Guy Fawkes, who, as everybody remembers, went to work in his own peculiar way to move Parliament. He selected the fifth of November, 1605, as the date of operations. Had he succeeded in his nefarious attempt to blow sky-high the legislative workshop of England, he would have committed a great breach of privilege—a breach measuring how many feet across I will not undertake to say. But Fawkes failed. He was drawn, hanged, and quartered; and he now stands in opprobrious wax-work, as an example of the villain of the period.

*Further  
talked about*

a consideration of the original question, and must be taken up first, it is not necessary that final disposition be made of it, on the spot. Nor is it one of those subjects that exclude talkative members from ventilating their views; for the question whether it be really a matter of privilege is open to debate. Often the prudent course is to defer action for the time being, in a hope that, with the coming of calm reflection, proper apologies may be got ready, and resort be had to easier ways out of the difficulty. The subject may need full investigation, and therefore, to be referred to a committee, with power to send for persons and papers. Or, as happens not infrequently, the cooler heads of the House may agree that the occurrence after all is of no great moment; and by general consent, the motion that deals with it is laid upon the table.

*Other  
privileges*

\* There remain to be noticed certain privileges, personal in their nature, to which I need make only a passing allusion. Such, for instance, is freedom from arrest. A representative of the people cannot in his official capacity be pounced upon by the sheriff, and arrested on civil process, while the assembly which he ornaments is in session. Legislative dignity forbids. His fleshly tabernacle may be needed in the House, nobody knows at what moment, for the purpose of making a quorum. The

people have the right to be represented by him every day of the week, and every hour of the day—a right that nothing short of illness, under a regular physician, can suspend. The intelligent reader sees at a glance how impossible it would be to get word to a sheriff, or deputy, at the precise moment when the bodily presence of the distinguished gentleman is peremptorily demanded. Private business, and especially that part of it which consists of interviews with creditors, must wait until subjects of public concern are disposed of.

\* Nor can the men who make laws be compelled to sit on a jury. That dollar-and-a-quarter-a-day work is not for them. No matter how hard it may prove to get together an intelligent and unprejudiced twelve, the legislator is safe from a summons. Nor can you drag him into court as a witness in a civil action, for he has superior duties in another place. As a matter of fact, however, this exemption is usually waived. The truth is, a willingness to talk in public gets to be so ingrained with your average member, that it takes no great amount of urging to induce him to appear upon the witness-stand. Should he consent to testify, the lawyer on the other side has just as much right to try to harass and perplex him, on cross-examination by a running fire of questions, as if the witness were only an ordinary man.

*An escape*

*Franking*

\* A substantial privilege of a Congressman, which time has sanctioned, and taxpayers have come to tolerate, is that of sending speeches, and other heavy documents of a public nature, together with packages of seeds, through the United States mail, free of postage. This boon is one of the great rights that bolster up our liberties; a boon which the Barons would have wrested from King John at Runnymede gladly enough, if any gentleman representing the party of the second part, on that historic occasion, had happened to think of it.

*Its pervasive quality*

\* The benign effect of the franking privilege, it is to be observed, can be felt in the remotest corner of a member's district. It is safe to say that no man living can cipher out the gross amount of statistical, financial, and other useless and voluminous information, that is dispensed profusely to an intelligent constituency, during the several weeks that precede an election, all owing to this happy adjunct of civilization, the art of franking.

*Like the rest of us*

\* There remain sundry other duties and obligations in respect to which a legislator resembles the rest of mankind, in not being exempt therefrom by virtue of his official position. For instance, he is, with the rest of us, exposed to the breezy incursion of the book-agent, as well as the insidious or the open attack of the subscription paper.

When he travels by rail, he has no superior chance of escaping the importunities of the train-boy. Perhaps it may be as well for our statesmen thus to be put on a level with ourselves; they may to some degree come to understand what people at large have to endure. One privilege, however, remains to a Congressman, in which his constituents may not expect to share; and that is, the right at his decease, to be buried without charge, under a monument of granite, with suitable inscriptions, in the Congressional Cemetery.

## CHAPTER XXVI

### ORDERS OF THE DAY

*Children of a larger growth.*

—DRYDEN.

THE holder of an excursion ticket to Washington, stimulated by a laudable desire of getting through with all the sights of the Capital within the period that the contract specifies, will not fail to assign a fraction of his time to the study of that branch of the federal government which is to be inspected from the gallery of the House of Representatives. He will want naturally to tell the people at home how "our member" compares with the rest. In the capacity of a constituent, he will have sent in his name by one of the doorkeepers to the distinguished man himself. In due time that gentleman coming out manifests extraordinary delight at seeing him, shakes hands cordially, asking "Now, what can I do for you?" and closes the interview promptly by putting into his hand a card for presentation to another doorkeeper in the upper regions, which card is an open sesame to the members' gallery. Our friend goes up in the elevator, proud to think he has been complimented thus handsomely; and fully satisfied that

the Honorable Mr. A., whatever his views on the tariff, is at heart a good man.

\* As the spectator surveys the scene beneath him, how multitudinous and varied are the thoughts and emotions that crowd upon him, especially if he has brought a guide-book along. At first, he is bewildered, and loses himself in admiration at the animated scene below. It is like an open beehive, he fancies. Perhaps he muses over the curious revelation that a majority of the heads upon which his gaze for a moment rests are nearly, if not wholly bald; and he is at a loss to conceive why a head that is busied with making laws should lose thatch in the process. The ferment beneath him is unintelligible. It strikes him as singular, for example, that yonder elderly gentleman, respectable, almost dignified in looks, should be permitted to work himself into a state of frenzy, with nobody to take notice of what he is saying. Confusion seems to reign, several men on their feet, all talking at the same moment, while the great body of the members keep on reading newspapers, or writing letters, or look around in the most unconcerned manner possible. Occasionally some one contributes a little more noise by clapping his hands for a page to run to him, the entire scene being an odd mixture of tempest and indifference, that our friend can make nothing of, and finds

*The gallery*

impossible to reduce to description. The stout red-faced man, who with an air of authority stands behind the desk, keeping up a lively rat-tat with a small hammer, is (so a stranger in the next row says) the Speaker *pro tem.* From a gallery point of view the looker-on fears that the Speaker *pro tem.* has never had experience at keeping school, or he would insist upon less of the go-as-you-please style in front.

*A lull*

\* Presently there ensues a moment of quiet; and looking for the cause our excursionist sees two men standing in the aisle near the centre door, just inside the rail. One holds an armful of great, white papers, of which he seems only too willing to be rid. He is a messenger from the other end of the Capitol. After having bowed to the Chair, he makes it known that he is charged with an announcement of what his employers, the Honorable Senate, have been doing. In a clear tone, he recites, galloping like a thoroughbred through the titles, that the Honorable Senate have passed this, that, and the other bill. Then, as he hands over the bundle to the House official at his side, he executes a wonderful *congé*, that implies no end of profoundest respect for this co-ordinate branch of the legislature,—and takes his elegant departure. The House official, with a firm tread, comes down the aisle and passes the bills over to the clerk, who lays them, after a fashion no



less solemn, upon the Speaker's table. The ceremony is the occasion for a not ungrateful pause.

\* This over, the buzz and clatter start up again. Little of what is said (or attempted to be said) is our eager listener likely to catch. He is sorry to lose so much,—for he would like to take it home with him. Nothing, so he fancies, would furnish a more welcome staple for conversation at the village post-office, while awaiting the sorting of the mail—than some of these wise sayings fresh from the lips of leading statesmen, could he only carry away samples, and be able to affirm that with his own ears he had heard them uttered. In a few moments, our friend's observation fixes itself upon a tall man near the front who extends a forefinger authoritatively, and ejaculates in a shrill voice, "Regular order—regular order." Magic words these appear to be, for they are reiterated by others; and of a sudden the sea of almost angry contention grows smooth and calm; or, as some writers prefer to say, when they employ this stock figure of speech—"the billows subside."

*More  
turbulence*

\* The regular order means the order of business prescribed by rule to be pursued each day. If there were not a regular routine fixed for the disposal of business, nobody could tell what might become of a session. Time would be worse than

*A needful  
program*

thrown away. The order of business, for instance, requires that Fridays shall be set apart for the consideration of a certain class of bills; or that, on the second and fourth Mondays of the month, it will be in order to take up bills from a certain committee. An order of the day, the reader perceives, is just as necessary to a legislature, as a "Notice to Guests" is to a hotel-keeper, who has it fixed on the bedroom doors to tell the traveller what to do with his jewelry, his dog, his children in arms, gas after midnight, and other perplexities. It is found to be of unspeakable advantage to members to be advised beforehand what subjects are to come up for deliberation at particular hours. Under such an arrangement, A. may wait till the night before, to put the finishing touches to his great speech. B., on the other hand, whose constituents care nothing for A., or his great speech, can get safely out of range, being warned in season of what is going to happen.

*How it  
works*

\* To call for the regular order, then, is to ask the presiding officer to switch off, so to speak, upon a "siding" the subject-matter before the House, and leave open the main line for a discussion of the measure that a previous order has assigned, or that shall have come along as unfinished business. Some matter of more than usual importance may have been set down as the

special order of the day and hour that has now arrived. There need be no fear that the date will be overlooked. The clerk, with the aid of a patent calendar, attends to that.

\* By virtue of the previous vote, a subject assigned specially takes precedence of all others; that is to say, a motion to proceed to the consideration of that subject is a privileged motion. When the hour arrives, a motion to take up the subject must be made; for although the House two weeks ago was of opinion that it would like to discuss the Fog-signal bill on Thursday, the 29th, at one o'clock P.M. precisely, it may not be of the same opinion still. There may be weighty reasons why the House is not disposed to lay to one side the attractive subject of convict labor, now engaging its attention, and take up a bill that has not so much politics in it. Whatever be the reason, should the majority happen not to be of the humor, they will vote down a motion to proceed to the order of the day. When this occurs, the order of the day stands discharged; and business with which the House was occupied at the time the motion was made to proceed with the order of the day, continues in order, and is entitled to be disposed of.

*Comes to the front*

## CHAPTER XXVII

### ORDER

*Gentlemen who are through emptying their revolvers will please come to order.*

—THE CHAIR.

**I**N his Manual of Parliamentary Practice, Mr. Jefferson remarks aptly: "There are several questions which, being incidental to every one, will take the place of every one, privileged or not; to wit, a question of order arising out of any other question must be decided before that question." To sustain this lucid proposition the author cites Hatsell, volume two, page eighty-eight. I see no reason whatever to doubt that Messrs. Hatsell and Jefferson are right, and all the more readily do I fall into line, when I observe the late Mr. Cushing moving up and occupying exactly the same position.

*Must do it*

\* We expect naturally a good deal from a presiding officer. One quality at least the public have a right to demand, and that is promptitude and firmness in keeping those before him in order. This is what he is paid a salary for. He must preserve order, without debate, or parley. The very first moment he detects a violation of a rule of the House, that moment he must act, just as a locomotive engineer, dashing around

a curve, must work the throttle the instant that he sees a cow on the track. A member, who knows that a breach of order has been committed, may rightfully insist that the rule applicable thereto shall be enforced. He may rise in his place, and by addressing the Chair, call another member to order; *i.e.*, ask the Speaker to declare the offender out of order. In performing this office the breast of member number one is supposed to be palpitating with a sense of duty to his country, and to the Constitution.

\* Where it is apparent that a member has overstepped the line, no inquiry can be raised as to the duty of the presiding officer. Circumstances, however, sometimes render it doubtful whether the conduct complained of does in reality violate the rules. This inquiry, as the reader surmises, is itself a question of order. For the time being it supersedes the consideration of the subject-matter, out of the discussion of which it has arisen. The House, therefore, lays aside for the time being the business with which it is occupied, and requires all hands to concentrate attention upon the point of order.

\* The practice in some quarters is for the presiding officer himself to decide the question, subject of course to an appeal; while in other bodies it is made the duty of the Chair to submit the question to a vote. In the House of Representatives, at Washing-

*Is it a breach?*

*They go  
right ahead*

ton, a point of order that a proceeding is in violation of the honor, dignity, or privilege of the House, is a question not for the Speaker, but for the House itself to determine. Where it is left to an assembly to pass upon the subject, the question may be debated; while debate, as a matter of course, is allowed upon an appeal taken from the ruling of the Speaker, upon a point of order. Debate, I need scarcely remark, must be confined strictly to the inquiry whether a breach of the rules has been committed. Those who favor the House with their views responsive to this inquiry, have no right to discuss the main question, out of which the point of order has arisen.

*On the jump*

\* It has already been said that the presiding officer must rule upon a point of order, without debate. This saves time. "Useless discussion," says an acute writer of an essay on Schopenhauer, "is a waste of words." When the Chair is satisfied that the point of order is well taken, the Chair promptly sustains it; when the Chair is satisfied that it is not well taken, the Chair overrules it. Such is the uniform practice. An occasion may arise where the Chair finds itself in the midst of grave doubts. Upon an emergency he may call to his aid the opinion of individual members, who are able, perhaps, to refer him to previous decisions with which he may chance to be not

familiar. The presiding officer, if he so choose, can refer the question to the House in the first instance for its decision.

\* Some good people are so fixed in their own way of thinking that it is impossible for them in the remotest degree to conceive how anybody who differs from them can be right. At times a man endowed with adamantine firmness manages to get himself elevated to the rank of a legislator; and he takes his peculiar habits along with him when he goes up to the Capitol. Should he have the gift of speech-making, it is more than likely that the session will not have gone far before this individuality of his becomes distinctly visible. Possibly some question arises upon which he and the Speaker do not agree. To guard against such a catastrophe, the law provides that an appeal may be taken from the ruling of the Chair. This provision is not framed, however, for the exclusive benefit of those who are rock-bedded in their convictions; it is meant to meet the case of possible error, into which even the ablest presiding officer may fall.

\* Hence it may be said in general that a member who believes that the conclusion reached by the presiding officer is not well-founded, has the right to appeal from his decision. Upon taking an appeal the form in which the question is put usually is, Shall the ruling of the Chair stand as the

*Firmness—  
large*

*Appeal*

decision of the House? As we have just seen, the question is open for debate. It affords a fine opportunity for those who are crammed full of the learning of the law parliamentary to display an easy superiority over their fellows.

*Human  
nature  
again*

\* Of course, the natural inclination of an assembly is to side with the Speaker, upon an appeal from his decision upon a point of order. That distinguished official is the choice of the majority. He has been selected for the honored position because of his ability. Aptitude at applying the rules had already rendered him conspicuous as a leader upon the floor. Daily experience in the Chair counts for a great deal. He has trained himself to a familiarity with the law parliamentary. He buys the new books. Besides, he makes a heavy draft upon the Library for literature bearing on the subject. All of which tends to render it highly probable that when the Speaker decides a point, he is right. But there are cases, of course, where his conclusions are found upon close examination to be incorrect. Or, it may happen that a ruling is made while the Speaker himself is not in the chair, and the decision called in question is that of some member who is not so well grounded in the practice of the House.

*May get in  
a word*

\* It is open to the Chair to take part in a debate upon an appeal; and he may support his decision by argument, setting forth the



grounds more explicitly, and citing the authorities. I have never myself spent much time presiding over assemblies, but upon general principles, I should imagine that the man who does so is somewhat sensitive about appeals, and that he does not enjoy having his rulings reversed. Resolute, energetic men excel as Speakers—such as Julius Cæsar, Catherine of Russia, Oliver Cromwell, and Andrew Jackson.

\* An appeal may be laid upon the table. The usage has obtained in Congress of sustaining the decision of the Chair by laying the appeal on the table, as the quickest disposition to be made of it; for under the rules a motion to lay on the table must be decided without debate. In the Senate of the United States the presiding officer may decide a question of order without debate, or he may submit it to the Senate. From all of which it is to be gathered that the object of rules of procedure is to secure prompt decision on points of order, they being merely incidental in their nature, and designed to facilitate the transaction of business in an orderly way, and not to obstruct it; and, further, that advantage comes of leaving a considerable latitude to the good sense and deliberate judgment of the presiding officer.

*A speedy  
remedy*

## CHAPTER XXVIII

### READING PAPERS

*He that knows anything, knows this in the first place, that he need not seek long for instances of his own ignorance.*

—LOCKE.

THE law parliamentary acts upon the theory that the representative of the people hungers and thirsts after details, the more of which he gets the sharper grows his appetite. Thus can we account for bulky documents, in solid type; reports elaborate, and well-nigh interminable; statistics and estimates, maps, diagrams, exhibits, balance-sheets, and the like. Hence come investigations, helped forward by the aid of stenography, page after page of explanations, vindications, counter-allegations, and what not, all designed to illuminate dark recesses of the legislative mind, and store it with a clarified product. The government printing-office keeps its fast steam-presses running day and night to supply the cravings of the congressman. Yet, in spite of this lavish expenditure, members are forever taking the floor and beginning with the remark, "I rise, Sir, for information."

*Let us hear*

\* Before a member can be compelled to vote upon a proposition, he has the right to have any papers thereto appertaining

which have been laid before the House, or referred to a committee, read at least once. He may go to the clerk's desk and read papers as they come in; or, by applying to the Speaker, he may obtain an order for the clerk to read them aloud in open session. All this is no more than saying that papers laid before the House are open to the inspection of every member, and that their contents are not to be concealed. Or, in other words, whenever a member asks to have a paper read, not for purposes of delay, but for his information, the assembly will ordinarily grant a request so reasonable; and the Speaker will direct the paper to be read, unless objection be made. Should anyone object, the question is put.

\* In the olden time, before it had grown to be a custom to send bills to the printer, and when there was not very much work to be done, all bills were read aloud at three separate stages.<sup>1</sup> By no other method could members be expected to find out the text of a bill. But now so innumerable are the bills and resolutions that pour upon the clerk's desk that nobody cares if they be kept enveloped with a profound silence. There is no estimating how much wear and

*Reading of  
bills*

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<sup>1</sup> "Such parleyings or consultations—always two in number in regard to every matter, it would seem, or even three; one sober, one drunk, and one just after being drunk—proving of extreme service in practice, grew to be Parliament, with its three readings, and what not." Carlyle's "Frederick the Great," vol. 1 (1859), page 612.

tear of a reading-clerk has been saved by the invention of printing. In order to provide against the loss of time that might otherwise ensue, it is the usage of many assemblies to accomplish the 'first and second reading of a bill, by an actual reading of the title only. Some States, by way of safeguard, have inserted a provision in their constitutions that a bill shall include but one subject only, which shall be expressed in its title. The constitutions of a few States, however, make it imperative that every bill shall be read in full three times before its passage.

*We aim to  
please*

\* Where it is the custom simply to announce a title, any member who expresses a desire to have the contents of a bill read at length for his information, will be gratified, as a matter of course. Generally, however, members find themselves able to curb their curiosity; at least, they are content to wait twenty-four hours until they can consult a printed copy. To be sure, it will happen sometimes that an indiscreet brother may arise with the purpose of introducing a bill, whose terms as soon as disclosed would be considered by the whole House as highly objectionable. In such a case no time is lost before a reading of the bill is demanded by some member, in order to put a quietus upon it.

## CHAPTER XXIX

### SUSPENSION OF THE RULES

*Nor yet at eve his note suspended.*

—COWPER.

WE have had occasion hitherto to inform ourselves that a bill, resolution, or motion, when once launched, goes beyond the control of him who starts it, so that he cannot withdraw it from the consideration of the assembly, except upon leave obtained for the purpose.

\* It is an idiosyncrasy of some people that no sooner do they set a piece of work to one side and pronounce it complete, than they fancy they see where they can improve it greatly. Let a man of this stamp introduce a bill or motion into an assembly, and the moment it has gone out of his hands, he sees, as clearly as the noonday sun, where a stroke of the pen would improve the wording. In ordinary cases, if the mover of a bill asks leave to change its phraseology, it is granted as a matter of course. No one cares to object. But the principle remains, as stated, that the mover of a bill or motion may not withdraw it, or alter its terms, unless by unanimous consent, or unless upon motion a vote is had to that effect.

*Tinkering*

\* Our House of Representatives at Washington allows a member to withdraw a bill,

*Withdraw-  
ing*

or motion, at any stage before the question is decided, or amended, except after the previous question has been seconded; in fact, the House is rather pleased to have him do it. Instances have been known under the operation of this liberal provision, where a bill has been withdrawn entirely, and yet nobody has seemed to miss it. The reason for withdrawal is entered usually upon the journal; and it appears not infrequently that a new bill is introduced at once thereafter to cover the ground.

*Clearing  
the way*

\* No matter how wholesome a rule of procedure may be, cases will from time to time arise, when, though applicable, it had best not be enforced. Unforeseen events, or peculiar circumstances, may justify a temporary change of the rules. Surely it ought not to be expected of a legislative body that it will everywhere, and at all times, live up to its standing rules, regardless of consequences. On the contrary, a common practice obtains to suspend the rules upon occasion by unanimous consent. It is a convenient practice, the result being that the assembly goes ahead, and deals with the situation, precisely as though no such rule had existed. This method is resorted to when a very large majority are known to favor an immediate disposition of a bill or a resolution, which, by reason of a rule whose operation it is proposed to suspend, is not in order at the time.

\* Unanimous consent is a happy state for an assembly to get into—a sort of parliamentary honeymoon, so to speak. Where all hands work together, business can be dispatched at a merry rate. “Is there objection?” asks the Speaker, scarcely stopping to have the query answered. “The Chair hears none,—there is none”—and that functionary, rattling off the formula at the highest rate of speed consistent with the dignity and grandeur of his elevated office, sends bill after bill through the legislative hopper. Such felicity further resembles the honeymoon in that it is likely not to last long.

*Halcyon days*

\* In order to effect a suspension of the rules, it is necessary that a motion be made; and, according to the rule prevailing in many assemblies, be carried by a two-thirds vote. Some bodies require that three-fourths of the members voting shall favor it. In case the motion fails, it cannot be renewed upon the same day, except some business shall have intervened; or unless the new motion be varied in terms from the former. This restriction seems fair. An assembly that has said distinctly that it does not wish to suspend a rule, ought to be let alone on the subject, at least long enough for a breathing spell. I do not hesitate to lend to this feature of the law my hearty approval.

*Two-thirds*

\* In the House of Representatives at Wash-

*Nick of time*

ington, a motion to suspend the rules can be entertained only on the first and third Monday of the month, or during the last six days of the session. A motion to suspend the rules, my readers will be pleased to hear, is not debatable; nor can it be amended; nor laid on the table, nor postponed indefinitely; nor can the vote thereon be reconsidered. At least, this seems to be the idea entertained of it in the columns of the Congressional Record.

*A remi-  
niscence.*

\* Memory brings fondly back the fact that while I was getting my floggings, and the rest of my education along with the other boys, in the old brick school-house on the hill, it was a pleasing custom for us young gentlemen, when the master, upon being called to the door, had concluded to step out into the hall for a moment,—it was our custom, I say, to transact a good deal of miscellaneous business inside, by unanimous consent, under a suspension of the rules.



## CHAPTER XXX

### DEBATE

*Truly, there is much to be said on both sides.*

—FIELDING.

THE assembled Solons, we will suppose, have at last reached the point where all is in readiness for debate to begin in downright earnest. The house is animated with one stirring purpose; it wants to get to work. Somebody has led off already by taking the floor, and offering a resolution, which he sends to the desk for the clerk to read. The clerk has begun to read it aloud.

\* In theory a debate consists of a free and full interchange of opinion, with plenty of room for diverse expressions and ample time for enlarging thereon. The law detects no inequality among members, as regards intellectual capacity, wisdom, and talent. A subject comes up for discussion. Since all are equal, each member is entitled to take the floor, and state his views. We have more than once had occasion to observe, however, that life is short. A limit must be set to the time that shall be employed in the ventilation of opinions; as well as to the frequency with which one gentleman may favor the others with his remarks.

*What debate  
is supposed  
to be*

*Brevity*

\* It has taken years of experiment to hit upon a plan whereby debate in an assembly may be suffered to go on so as to elicit the opinion of many, and yet save the time of the House from being wasted in tiresome talk. To a certain extent, it is safer to err on the side of too much rather than of too little freedom; for the public interest is best served when a measure is open to be discussed from various standpoints,—its merits extolled by those who favor, and its defects pointed out by such as oppose it. This, too, even where the speaker is not sure that he is making himself understood, or even where he does not understand the question very well himself; for the chief benefit of discussion is plainly that it sets everybody to finding out what he thinks about the subject; and opens a possible way to thinking correctly.

*The clock*

\* In applying the rule to limit the time of a speaker, a narrow margin is left within which the presiding officer can display not a little tact. When an occupant of the floor appears to be impressing his hearers favorably, is sticking to the point, and making a sound argument, the Chair may fitly hesitate to break him off in the middle of a sentence, in order to announce that the gentleman's time has expired; the favor of a fraction of a minute may be granted. Whereas, should the time be occupied by one who seldom is known to offer anything

in particular worth hearing, it seems eminently fair that others should have their turn; the assembly expects the Chair to look to it that the hammer drops upon the second. A presiding officer should be keen to note from the row of faces before him the difference between an aspect of genuine interest, and a half-suppressed yawn. Where a member is cut off short before he has fairly made his point, the House is disposed not unfrequently to present him with a few more minutes, by unanimous consent. This is accomplished by a motion, a gracious suggestion, by the way, to come from an opponent.

\* Though the presiding officer is styled the Speaker, he is not expected to take the floor and make a speech. He stands excused. It has been thought that it is enough for him to be obliged to look after the brethren who are engaged in that arduous duty. Inasmuch as the Speaker is regarded as the servant of the whole House, it is considered proper that he should hold himself aloof from controversy. The President of the Senate of the United States does not participate in debate. But John Adams, in the first Congress, we are told, used to make frequent speeches, in positive terms, too, in the body over which he presided.<sup>1</sup> When the Speaker throws a cast-

*Does not  
speak*

<sup>1</sup> "Up now got the Vice-President, and forty minutes did he harangue us from the chair." Journal of William Maclay, 27.

ing vote, he may, if he choose, give his reasons. This modest step in the direction of oratory custom sanctions upon the ground that his speaking is not in any sense a harangue designed to influence votes, is not taking part really in the debate. The Speaker is human, like the rest of us. Perhaps, were he to take sides with either party in the discussion he might be tempted in the heat of debate to enforce the rules less strictly against them, than against their opponents. Still, there is no canon of the law legislative that in terms forbids the Speaker from participating in debate, if he sees fit; and in this country he sometimes, though not often, takes the floor. Upon such an occasion, the Speaker calls a member temporarily to the chair.

*Across the  
water*

\* In Parliament, the Speaker may of right speak to matters of order; and though he is to be heard first (out of respect to the office) he is not permitted to talk upon any other subject. That august personage, though not at liberty to resign his office for the time being into the keeping of a member, and go down upon the floor to mingle with his fellows, may at any time state from the chair facts that are peculiarly within his knowledge; or, if he think it worth while, he may announce his reasons for a ruling from which an appeal has been taken. So our British friend does not hold such an irksome position after all.

\* As for other legislative bodies, the practice is uniform that all who have remarks to offer are expected to address themselves to the Chair. A member may be designing to utter something that will interest nobody but his constituents at home; neither the Chair, nor anybody else present, cares a brass farthing to hear him, but this circumstance makes no difference in the *modus operandi* of starting off. So when a messenger comes over from the other House to announce what that House has been doing, he stands in the aisle, and waits quietly until the Speaker shall throw a friendly nod in his direction. Everybody has to recognize the Speaker before the Speaker will recognize him. Speakers are punctilious in this respect.

*The way  
they do it  
elsewhere*

\* A member who purposes to take the floor arises in his place, and ejaculates the words "Mr. Speaker." It is then his duty to refrain from entering upon a course of remarks until the Speaker has signified a recognition. After once having broken ground, there is no objection to his taking his eye off the Speaker, and turning around so as to impart the ardor of his countenance to his fellows on either side, or even to the rear, if by this means he can further the work of conversion.

*The polite  
method*

\* Custom has ordained that in the House of Commons a Quaker is allowed to speak covered. During the early days of Con-

*Apparel*

gress, it seems that members used to sit in the House of Representatives with their hats on, after the immemorial practice of the Commons. But wearing hats indoors is an observance that disappeared long ago upon this side of the water, it being the Pan-American idea that hats, canes, umbrellas, and overcoats, not appearing to be necessary instrumentalities of legislation, should be stored in the cloak-room. Indeed, a rule of the House of Representatives at Washington provides that during the session of the House, no member shall wear his hat.

\* Even in England there are times when the Commons are good enough to take off their hats. Such an instance occurred at the accession of Queen Victoria in 1837, when, on the day after the House had met to take the oath of allegiance to the new sovereign, Lord John Russell appeared at the bar of the House, charged with a message from the Queen. There was a cry of "Hats off," and all the members uncovered. A little incident like this serves to show that, when it comes to doing the correct thing, our English cousins are not such bad fellows after all.

*"No smoking on these premises"*

\* Another inhibition is that a member must not smoke upon the floor of the House, for the reason perhaps that, under the soothing influence of pipes and cigars, now and then a question would be lost in clouds of to-

bacco, and debate might run the risk of quietly subsiding into pointless chit-chat.<sup>1</sup> Nor are members allowed to pass in front of a fellow-member who is speaking. With these few salutary hints as to deportment, a Congressman is left free to regulate his manners at the Capitol just like other people, subject to the Constitution with the amendments thereto, and all laws and municipal regulations now in force in the District of Columbia.

\* Let me close this chapter by saying a word about "unanimous consent." It may surprise the reader, seeing that few days of a session pass that unanimous consent is not asked for, to learn how small is the space that is devoted to a discussion of the subject of unanimous consent in works upon parliamentary law. Any young man who has started to obtain the unanimous consent of a family, to be allowed to marry into it, knows something of the difficulties that lie across the path. When unanimous consent is required of an assembly in order to introduce a motion, or to adopt a proposition, no member will be heard to argue in the negative. I am led here to remark that it is no proof of greatness that a man

*Obvious  
enough*

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<sup>1</sup> The reader may possibly be reminded of Carlyle's chapter in the "Life of Frederick the Great," upon the Tabagie or Tobacco Parliament, as he calls it, of Frederic William, "The substitution of tobacco smoke for Parliamentary eloquence is by some held to be a great improvement." Vol. I (ed. 1859), 610.

can be counted on to distinguish himself by objecting when not a single other member does. He may imagine that it is; but the opinion of what the French call *tout le monde*, is the other way.



## CHAPTER XXXI

### DEBATE (*Continued*)

*Great words in the House on Saturday.*

—PEPYS' DIARY.

A HOUSE, I make bold to remark, can do nothing without "a floor." Indeed three articles are essential to the carrying forward of legislation, namely, the gavel, the table, and the floor. How to get the floor is the first lesson an aspirant for fame in the political arena has to learn; the next, how to hold it. When he has at last gained recognition from the Speaker, and "got the floor," he has a right to congratulate himself upon having acquired a tangible piece of property.

\* A member is not to be dispossessed of the floor easily, that is, if he be on his guard. I need not assure my fellow-countrymen that there are times when to have the floor is a great advantage; and the holder is not going to give up possession until he is ready, or unless his time has expired. He may, if he see fit, yield the floor temporarily for a brother to make an explanation, or to submit a motion to adjourn, or postpone; or, if in Committee of the Whole, he may yield for the Committee to rise; and if the House (or Committee) decide not to pro-

*'Twas mine*

ceed in that line, he will, barring accidents, get back the floor again.

*'Tis his*

\* But if, in the goodness of his heart, or in the simplicity of his nature, from a belief in the righteousness of his cause, or, from any other exalted motive he lets go his hold, for the purpose of allowing somebody to offer, or withdraw a motion, or to make a report, he will to his amazement discover that his right to reclaim the floor is gone. The sensation of having the floor taken from under one, is said to be vertiginous.

*Who's who*

\* Should it happen (and it does—often enough) that two or more members are on their legs at the same moment, exhibiting symptoms of starting to throw off a speech it becomes the duty of the Speaker to select which individual of the number he purposes to invest for the time being with the proprietorship of the floor. Frequently it has been found convenient to enter beforehand into an understanding that a particular gentleman shall be recognized, upon rising in his place, to the exclusion of others. Such an arrangement leads occasionally to wonderful optical results, enabling the Chair, as it does, to look clean through a stout, big-lunged fellow who is clamoring for recognition, and to see behind him the quiet gentleman standing in what, to an ordinary observer from a like direction, would appear to be the path of a total eclipse.

\* The usage has long prevailed in both Houses of Parliament, on occasions when several gentlemen are on their feet, of according preference to a new member. With us, where the American eagle has accustomed himself and his family to soar in a freer atmosphere, no such tenderness prevails.

*The courtesy  
of  
Westminster*

\* When we speak of debate, we usually refer to that free interchange of views in favor of a proposition, or against it, which is effected by brief, oral remarks, designed to influence votes. They who inflict upon their fellow-men long and prosy harangues are not debaters. They are bores. Upon subjects of large extent and of universal importance, where many members desire to speak, set speeches, as they are termed, may be allowed. There is no precise limit fixed for the duration of a speech. The longest one on record, in modern times, is said to have been made in the legislature of British Columbia, by a representative named DeCosmos, who to defeat a bill spoke uninterruptedly for twenty-six hours. I presume that a representative named DeCosmos, or anybody else, would hardly talk for that length of time at a stretch, unless he had some object in view.

*Pro and con*

\* The law parliamentary, it seems, has always been disposed to favor a generous speech crop. Perhaps it would be nearer the mark to say that the law assumes that

*Tolerant*

every member is capable of making a speech. The member himself assumes it too. The law does not care who writes the speech, so long as a member sees fit to make it his own, by coming into the House and delivering it. Sometimes we see a member so much engrossed with business that he cannot spare the time needful for the preparation of a speech. Still, he feels ambitious to make an oratorical display. He therefore sets about accomplishing this end through methods purely business-like. When a legislator is overwhelmed with pressing affairs of state (so busy in fact that he cannot even do the family marketing), what harm is done, if he consult a friend, who has a knack of getting together at short notice a speech that sounds well? If the former can stow away in his memory sentences and paragraphs that another has written for him, do they not become *his*? Upon this point the law entertains liberal views.

MS.

\* Mr. Fox upon one occasion said that "if the practice of reading written speeches should prevail, members might read speeches that were written by other people, and the time of the House be taken up in considering the arguments of persons who were not deserving of their attention." This criticism, it must be confessed, looks like an intimation that parties outside of the House of Commons could not prepare

so choice an article by way of a speech as the members themselves. However true this may have been in the days gone by, circumstances, at least on this side of the water, have changed materially the condition of affairs. From an excess of good nature it happens that the law in question is practically a dead letter. No sooner does a member produce a roll of MS., and take up a position with the design premeditated to favor the assembly with its contents, than everybody seems to be seized with paralysis, so far as objection is concerned. By a tacit consent the member is allowed to proceed. He proceeds.

\* Were I asked by a young man who aspires to become influential as a debater to offer a grain of advice, I should bid him remember that he ought never to attempt making a speech, unless he have some reason for it. The celebrated John Wilkes persisted once in talking in the House of Commons, though it was plain that the House would not listen to a word he was saying. But he had a reason. To a friend who insisted that his attempts to be heard were fruitless, Mr. Wilkes is said to have remarked in an undertone: "Speak it I must, for it has been printed in the newspapers this half hour."<sup>1</sup>

*A hint*

<sup>1</sup> *Brougham's Historical Sketches.* A somewhat similar occurrence is recorded in the annals of Massachusetts legislation. An ambitious member had written out a speech, and given it to the press,

*Again—a  
hint*

\* It needs no great wisdom to predict with reasonable certainty that the member who is jumping up continually to say something,—who can never let a debate go on without taking part in it,—will soon have earned the reputation of being tedious. A distinguished English statesman, who talked a good deal, wrote the following lines, as an epitaph. They are a warning. So I quote them :

“ Here, reader, turn your weeping eyes.

My fate a useful moral teaches :

The hole in which my body lies

Would not contain one-half my speeches.”

---

in advance, to appear in the Boston evening papers. While he happened to be called out of the House for a few minutes, the bill came up and was passed without debate. The orator hurried back to discover that the bill had gone through, and nobody's eloquence had been called upon to help it along. His fellow members were persuaded to view the situation with much good nature, for they let the bill be put back again; and his speech was delivered after all according to program. One can't help liking Boston.

## CHAPTER XXXII

### SOMETHING ELSE ABOUT DEBATE

*Behave yourself before folk.*

—ALEXANDER RODGERS.

**A**MONG the improprieties that members are expected to refrain from in debate, as we have seen, is that of uttering remarks of a personal nature. No matter how exciting the topic, or how warm the controversy, there must be no personal crimination or abuse. Were members permitted to attack and vilify each other, like political editors, or theological disputants, the great object of all rules, namely, the speedy transaction of public business, would be defeated. Measures of urgent importance would encounter new delays, and matters generally would be brought to a standstill, to await the adjustment of some petty dispute. Men's motives would be constantly under the fire of criticism, their characters aspersed and their words distorted, with the result that legislative procedure would degenerate straightway into a fracas, instead of, as now, occasionally resembling one.

\* To avoid drifting into controversies of a personal character, it is forbidden to mention members by name. A legislator, it cannot too often be repeated, is an official

*No names*

personage, in whom for the time being the private individual is merged. The state knows no Brown, no Smith, no Jones, no Robinson. When it becomes necessary to single out a member for reference, there is a plain way open without bringing the name of that member to the front.

*How you  
do it*

\* Let me illustrate. Suppose, in the discharge of your duties, you have plunged headlong into the thick of a fight, and are going to make a terrific onslaught upon a gentleman across the aisle, who has just spoken against your bill. You purpose to demolish him. You mean to show how unfounded are his assertions, how worthless his alleged arguments. You are going to handle him in a style that shall make him wish that he had never been born. The law permits you to do all this, but it says peremptorily that while engaged in the enterprise, you must let alone that man's name. You can talk at him, and allude to him in terms that will let every hearer know perfectly well who is the forlorn, unhappy creature that is undergoing scathing torture,—but his name must not pass your lips. The law wisely provides that a delicate periphrasis shall veil the object of your animadversion with an ineffable, though none the less substantial sanctity. You can render him the focus of all eyes, by employing a phrase that means him, and nobody else, such as “my esteemed friend,



who last spoke," or "the gentleman who has just favored the House with his views," etc., or, "the distinguished representative from ———," or "the honorable member, who has succeeded in working himself into a state of mind," etc. Any form of words will answer the purpose, so long as they tend to lift the individual concerned into the higher sphere of calm, legislative impersonality.

\* Such is the rule. Nothing short of strict enforcement at all seasons can be counted on to preserve that becoming demeanor which should mark the conduct of our magnates who make the laws. But truth compels me to admit that there have been periods in the annals of the Congress of the United States of America, where under a stress, it may be, of a great public exigency, this rule for a brief moment has gone out of sight, like an anchor-buoy under the waves of a passing tug-boat. Such occasions are likely to be lost to the searching eye of the future historian; and perhaps it is as well that they should be.<sup>1</sup>

*Will  
transgress*

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<sup>1</sup> One incident of the kind, I strongly suspect, however, has "passed into history." I refer to an occasion in Congress, when General Benjamin F. Butler, of Massachusetts, declined to be interrupted by Mr. Samuel S. Cox, of New York. The General, with a wave of the hand denoting impatience, ejaculated, "Shoo fly," and proceeded in the line of his great constitutional argument. This reference, borrowed from a popular song of the day, to the genial statesman from New York City, whom everybody knew and liked as Sunset Cox, was, I need not explain, in palpable violation of Jefferson's Manual, of Cushing's Manual of Parliamentary Law, and of Mr. Cushing's larger work on the same subject.

## 184 THE GAVEL AND THE MACE

*Etiquette in  
the House of  
Lords*

\* My reader will be pleased to learn that peers expect to be alluded to by their respective titular rank, as "His Grace," "The Noble Marquis," and the like. It is an ancient custom of the realm, and it has been found to work smoothly. The habit, I am told, tends to preserve in peers a maximum of awe for each other. It may be remembered, however, that Thurlow, Lord High Chancellor of England, once upon a time while discussing the right of the lowly born to climb into the peerage, astonished one of the peers, who went by the name, I believe, of the Duke of Grafton, by an outburst of indignation that thrilled Parliament, and is to-day thundering around the walls of school-houses, wherever the English language and boys are employed in declamation. Though in terms addressed as "The Noble Duke," it was not unparliamentary in Thurlow, it seems, to characterize that scion of nobility as "the accident of an accident," whether he meant fire, or marine, we are not informed. It must have been a lesson to Grafton.

*A civil  
tongue*

\* Everybody will agree that a resort to personalities in the conduct of legislative business, cannot be too emphatically condemned. It is an offence not only against the individual at whom the words are levelled, but against the dignity of the assembly itself. Upon such an occasion the Chair has a plain duty to perform, and that

is, promptly to check the first step taken in the direction of violating the rules. Moreover, the Chair must be constantly on guard, for there is no telling at what moment interference may be needed. Men get excited sometimes very quickly as well as needlessly ; and words will find utterance upon the floor, in spite of the best efforts of the Chair, words provoking replies that deserve rebuke.

\* A scene of this description, which has been known to come on suddenly even in the best regulated assemblies, imparts to the debate a spicy flavor. It likewise affords an opportunity to the newspaper reporter to favor the public with specimens of his finest work at embellishment. There are seasons, it must be confessed, when a House lets itself grow careless, possibly owing to the weather and overwork. Still, it remains for the Chair to see to it that sparkling repartee does not go too far ; nor indeed is it always easy to draw the line between allowable sarcasm and direct personal attack.

*Appropriate  
reflection*

## CHAPTER XXXIII

### DEBATE (*Continued*)

*Airing his vocabulary.*

—CURRAN.

**A** PRESIDING officer must decide upon the spot whether, when one member is called to order by another, there be really a just cause of complaint. This is a delicate duty that admits of no delay; and it calls for whatever wisdom the Chair may happen to have available. The tone and gesture accompanying a remark may have much to do with its true significance, and the Chair ought not to be hasty to condemn. While the assembly is ordinarily disposed to uphold his decision, it is open to be appealed from, like any other ruling upon a point of order.

*In black  
and white*

\* When a member is discovered to be upon the brink of uttering disorderly language, some one may start up in the "nick of time" to check him, and by this means succeed in preventing the words from being actually spoken. Inasmuch as few of us, however, are gifted with the power of divining with any degree of precision what a man in the ardor of debate is going to say, obnoxious words may escape into the hall before the speaker can be called to order. Where the call to order seems to demand

"heroic treatment," it becomes the duty of the clerk to reduce to writing the objectionable language, as nearly as possible, in the very words that have fallen from the speaker's lips. The written words will then constitute the text, upon which are to be based such subsequent proceedings as may be found needful.

\* A rule of the National House of Representatives provides that no member shall be held to answer, or be subject to the censure of the House, for words spoken in debate, if any other member has spoken, or other business has intervened, after the words complained of shall have been uttered, and before an exception to them shall have been taken. This is a wise provision. It tends to keep Congressmen sharply up to their duty, by encouraging them to finish up their little misunderstandings then and there. It assigns to the deceased past, as the poet neatly recommends, the duty of attending to its own mortuary ceremonials.

*Then and there*

\* Gentlemen whose propensities hurry them into the thick of the encounter, will do well to bear in mind that to render language disorderly, it is by no means necessary that it should be uttered in debate. Words used in any parliamentary proceeding, as in making a motion, or answering a question, stating a fact, or even in reading from a book or paper, may prove equally

*Cautionary*

liable to animadversion on the part of the House. Nor, in the "give and take" of debate, does it matter whether the objectionable expressions be spoken boldly; or introduced covertly by innuendo, or in disguised and mysterious phrase. So long as there be a manifest intent to ridicule, or to disparage a fellow-member, or to impugn his character, the party offending may be called to order. Nor can he hope to avoid censure by ingeniously incorporating the obnoxious words into a case put hypothetically.

*Cakes and  
ale*

\* In saying this, I will not of course be understood as laying down the proposition that under no circumstances shall a parliamentary orator unlimber his battery and pour grape and canister into the ranks of the opposition; that he may never ridicule an opponent's position, or even allude to his personality, in phrase of cutting sarcasm. A dull day for the galleries, and for newspaper readers, will it prove when a rule so rigid as this goes into operation. But language which is susceptible of no other interpretation than that it is designed to be personally offensive, will not be tolerated, whether it be plain Anglo-Saxon, or only a cloud of circumlocution and mixed metaphor. Proud and soaring spirits of oratorical instincts, who have a vein of irony within, would do well to work that vein as lightly as possible.

\* Of course, it is to be expected, reader, that when you begin to take part in debate, you will have the good sense not to allow yourself to be found in a muddle of this description. Should you, however, plunge into one, you will agree that the sooner you plunge out of it the better. The quickest way out is to retract any remarks, clearly not in order, that may give offence, and say you are sorry that you should have uttered them. This course has the advantage of being the manly thing to do ; but as human nature is at present constituted, a road so hard to travel is not frequented. The offender must utter something, sooner or later, by way of apology, or he will subject himself to the censure of the House or to punishment of a graver nature. There is much good sense in what has been remarked by the Earl of Sandwich,—a title that suggests a quiet moment with the refreshing accompaniment of a glass of sherry. “Personal altercations,” says Sandwich, “always impede public business, answer no one substantial or beneficial purpose whatever, and are only productive of ill-humor.”

*The back track*

\* A fundamental principle governing debate at every stage is, that the speaker must confine his remarks to the question at issue. He must not ramble. This requirement is kept before the mind of the legislator usually by means of a clock, with a

*Stick to the point*

large dial, fixed at some conspicuous point in the chamber. In extreme cases it is easy to apply the rule. Where the divergence is less marked, it often becomes difficult to determine whether a speaker be in order. We are not all made alike; one man's method of elucidating a subject differs from that of his neighbor. For the purpose of laying hold of an illustration, a speaker may explore a by-path or touch upon this or that topic, whose relevancy at first may not be obvious. It is reasonable to allow a considerable latitude to the range of the discussion. If you, my young friend, in your efforts at speech-making discover yourself as it were "floundering around," do not be discouraged. Remember Father Taylor, who in a burst of inspiration once cried out from his pulpit, at the Sailor's Bethel, "I have lost my nominative case, dear brethren, but I'm going to glory just the same."

*A chance to  
scatter*

\* Some people, as already intimated, possess the gift of talking at random. A Congressional orator, whose forte lies in this direction, may derive consolation from the thought that when it comes to a discussion in a Committee of the Whole on the state of the Union he is not bound to adhere to the question under debate. A glorious opportunity is offered to him for freeing his mind, and soaring into the empyrean. He is apt to accept the offer. Where a special



order is pending, however, all debate in the committee must be confined strictly to the measure under consideration.

\* Most legislative bodies limit by positive rule the length of time that a single speaker may occupy the floor. As to the number of times that a member can be heard upon the same question, it is usually provided that once shall suffice. The rules of very few assemblies allow a member to be heard twice. Where one has reported a bill from a standing or select committee, he is regarded as having charge of the bill. Because of this responsibility, he has a right to open the debate, and the further right is accorded him, after others shall have concluded their remarks, of making the closing speech. It is only fair that the friends of a measure have the chance, before a vote is taken, to reply to such objections as may have been brought forward against it.

*How long?*

\* The House of Representatives by rule provides that no member, with the exception just mentioned, shall occupy more than one hour in debate upon any question, whether in the House or in the committee. The provision does not mean that each member has a vested right to talk steadily for sixty minutes, upon every occasion when a measure comes up for discussion. Far from it. An hour is a precious commodity, in this great body. A few gentlemen, and they because of their exalted po-

*The hour  
and the man*

sition with respect to the bill, are entitled among themselves to occupy an hour. To the chairman of the committee having jurisdiction of the bill, or to the member of that committee who has reported it, the hour is intrusted; and that gentleman has a right to "farm out" the time. That is, he may if he please yield a certain number of minutes to this member or to that, for getting up and telling the House what he knows (or thinks that he knows) about the measure. Five minutes is the usual allotment. The man who is able to compress what he has to say into five minutes, who can make his point in four minutes and three-quarters (leaving fifteen seconds in which with an air of leisure to resume his seat), is destined sooner or later to be a power upon the floor of Congress.

*May I ask  
the  
gentleman a  
question?*

\* Whoever sets himself up for a debater must expect to be interrupted every now and then by those who are anxious to ask questions. Our friend need not feel irritated,—it is a sign that he is being listened to. These guardians of the public weal are sure to be on hand, with whom a habit of breaking into another man's speech is chronic. They mean well; they are patriots, but for their lives they can't help interrupting. There are times, it is true, when a pertinent question helps to clear the atmosphere; but where one man can ask a pertinent question, there will be a dozen

who do not seem to notice whether their questions be pertinent or not; they keep on asking them just the same.

\* A well-worn phrase is "Mr. Speaker, will the gentleman yield for a question?" If the gentleman happens not to be in an affirmative mood (and at times it is wise to refuse), he politely but firmly signifies an unwillingness to give way. Frequently, however, he is conscious that he will come out all right, and so he answers with a faint smile: "Certainly." The other fires off the question, his face wearing a grin of triumph, as much as to say "That settles him." If the member thus interrupted proves equal to the occasion, he either sends back a lively rejoinder to the other's discomfiture; or else neatly dodging around the inquiry, with a passing remark quite irrelevant, he goes ahead just as if nothing whatever had occurred.

*How to interrupt*

\* Your hearers are always more ready to sympathize with you (I am not speaking now of political discussions) than with the man who would break in upon your line of remark. These are the opportunities offered the keen-witted to get the better of their opponents. Only let a reply come back on the instant, and the assembly, or such part of it as is listening, is disposed to accept it as a complete answer. But have a care when an old campaigner takes a hand at the sport. If you are talking, you

*A rencontre*

will do well to keep a close lookout for one of these wary interrupters. In case of sudden attack, there is one mode of warding off the adversary that can be recommended; and that is, to take on an expression of superior wisdom, and respond good-naturedly: "If my friend will only have a little patience, he will see how I dispose of that question before I get through."

*The locus in  
quo*

\* While the friends of a measure may attach importance to the circumstances where this or that member stands in reference to it, the particular spot where a member stands when he lifts up his voice in debate, to favor or oppose a measure, is of no consequence whatever. One may stand at his own seat; or, at that of another member; or, step into the aisle; or, if he prefer, he can occupy the open space in front of the Speaker. The fact is, listening to members of Congress in the act of communicating their ideas orally, is regarded at Washington as such a privilege, that by rule it is provided expressly that a congressman may do his talking from any place on the floor, or from the clerk's desk. Should the place selected be a long way off to the rear, one of the reporters will hasten toward him, note-book and pencil in hand, so that no precious utterance may be lost to the country.

*A contrast*

\* Perhaps it may not be averred that "they order this matter better in France," though

they order it differently there. Members of the *corps législatif* have not the right to harangue each other promiscuously from all over the floor; but each in turn, if he has anything to offer in the shape of a speech, is expected to trip down to the front, and mount a raised platform, called the tribune. Here he can throw his arms about, and get excited in a regular parliamentary way. Considering the explosive nature of French oratory, this regulation appears to be a wise precaution, but it is a restriction that could hardly become popular, should an attempt be made to introduce it here. In Paris, gentlemen who desire to join in the debate are required to furnish their names in advance to the President, who at the proper time calls up alternately first a member favoring, and then one opposing, the proposition under discussion.

\* Wherever man is in the habit of getting the floor, it is an axiom that when he gets through—he is to sit down. How many a young man of acknowledged talent, starting out in the morning of life with bright prospects who might have had a career (and his “picture” in the daily papers) has come to disastrous shipwreck, simply from not heeding this one short precept.

\* Though occasionally a member, cajoled by the sound of his own voice, goes plunging ahead, to the annoyance of his fellows,

*To be writ  
in letters  
of gold*

*Back-seat  
etiquette*

it is not etiquette for them to greet his remarks with coughing, jeering, cat-calling, scraping the floor, or any other outward and audible sign of discontent. The law parliamentary, adopting the theory that members all stand on a plane of equality, is pleased to take it for granted that the occupant of the floor, before he gets through, may let fall a grain of wisdom, or impart to those around him an idea of value. It follows logically that, while exercising his intellect with a possibility of this beneficent outcome, the gentleman who is doing the talking must be listened to with respectful attention. And yet——

## CHAPTER XXXIV

### THE EFFECT OF SPEECHES

*While words, like treacle, trickle from his tongue.*

—THE ROLLIAD.

THE main object for which American citizens give up for a season their business of farming, hotel-keeping, practising law, etc., and sit together, week in and week out, under the dome of a State House, or Capitol, is not to accomplish a certain amount of talking; it is to vote, and thereby to enact measures into laws. We have been considering how useful is debate, calling out, as it does, from various quarters an expression of opinion. Nobody will deny that a comparison of views affords valuable aid in coming to a proper conclusion. It is so in every well-regulated private family. A good and thoughtful wife, for example, after she and the children have decided it, will consent kindly to let her husband put in a word as to where they had best "go for the summer."

\* At this point I cannot refrain from remarking that the transaction of public business is not due exclusively to the labor of the speech-makers. The truth is, the member whose voice is not heard upon the floor is often the man who really determines a

*A  
compliment  
to a  
deserving  
class*

measure's fate. Such a man may congratulate himself on never being found in the ranks of friends who are guilty of having talked a bill to death. Whoever imagines that the silent member is not a power, may find himself greatly mistaken. The art of being silent at the right time is an accomplishment, here as elsewhere, that is worth more than a mastery of all the treatises on elocution and gesture, ever copyrighted from volume one of the speeches of Demosthenes, down.

*Public  
speakers*

\* Let me not, however, be suspected of underestimating the effect of a persuasive speech. I would have it brief. So would its hearers. And logical. The day of parliamentary oratory is not destined soon to pass away. True, under pressure of modern methods, the immediate effect of a speech in winning votes is frequently unperceived. The legislative mind has already been made up, so that logic and eloquence in vain spend themselves to effect a change. There is a miscellaneous class of questions, purely political in their character, where it is safe to count upon every man as sure to vote with his party,—a solid front. But, this range of subjects aside, there remains a wide field where the "silver-tongued" orator may to-day practise his powers of persuasion with as good a prospect of success as in former times.

*The press*

\* On the other hand, somebody with a



genius for getting ahead of other people has originated the saying that the present is the age of electricity. The wires, it is plain to see, have worked marvellous changes in the methods by which public men keep in touch with the people. The reporter in the gallery magnifies his office, at the expense of the statesman on the floor. The newspaper at breakfast usually serves a few scanty crumbs from Congress. We are expected for the most part to content ourselves with a paragraph of comment, a dash of personal mention, the merest outline of what was done, and little or nothing of debate. Be the cause what it may, it has now got to be the fashion for editors to provide us with the stream of legislative talk distilled exceedingly fine.

\* Still, apart from all that the newspaper may do, or leave undone, there is in Congress and in every State legislature, a chance that words uttered in debate may sooner or later reach the ears of the American people, or attract the notice of a few intelligent voters. Besides, the congressman who would arrest the attention of the public will not forget that the franking of speeches to constituents is a contrivance that bids fair to last as long as leather can be shaped into mail-bags. That eminent statesman of years gone by knew well enough what he was doing, when to a reminder that all the seats around him had

*The dear  
people*

become empty, he replied, "Sir, I am talking for Buncombe."<sup>1</sup>

*On to victory*

\* In a previous chapter I have alluded to the practice of franking speeches by the wholesale, as a custom of American growth, that flourishes in the soil of our free republic. The sudden irruption into the post-office of a mass of printed matter of this description is sure proof that the political campaign is opening,—if not already upon us. These valuable documents are intrusted to the United States mail, in season to reach the horny-handed son of toil at a critical moment. They stir within his manly bosom the fervid glow of political zeal, unless the postal clerk makes a mistake, and sends Democratic literature into a Republican household, or *vice-versa*. In plain English, these messengers keep him straight for the regular ticket. So it is that, although an immediate purpose of a political harangue upon the floor is to hold the party in the assembly well up to the alignment, a second and no less important object, is to disseminate orthodox political doctrine, at all points of the compass, through the medium of an executive committee, and a legibly addressed wrapper. The member, therefore, who can in stirring terms praise his own party, and denounce

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<sup>1</sup> A southwestern county of North Carolina; area 450 square miles; soil, fertile; excellent pasturage. Noted for raising corn, rye, wool, tobacco, and this particular member of Congress.

the unrepentant character of the opposition, will find his eloquence to be in steady demand at regular seasons, so long as political parties continue to exist and to fight their battles in order to get control of the offices.

## CHAPTER XXXV

### PUTTING THE QUESTION

*How quickly men of sense agree !  
I side with him, who sides with me.*

—ANON.

**R**EADERS who have struggled through the later chapters of this imperishable work, naturally want to learn what happens when a debate is closed. I seem to hear them uniting to ask what are the several methods by which a House signifies its assent to the measure under deliberation, or the reverse. They shall be told.

*The chair*

\* Now that members upon the floor have got through, the chance comes for the presiding officer to take a hand. He will proceed as quickly as possible to find out what may be the opinion of the House on the subject. If the debate has lasted for some time, he may think it advisable to state the question anew in precise terms. The standard works on parliamentary practice, as well as the cheap editions, agree in saying that a presiding officer while stating a question may remain seated, but for the purpose of putting the question he should rise, and continue in a standing posture.<sup>1</sup>

<sup>1</sup> In view of the fact that the Speaker of the House at Washington is obliged to get up and sit down again so many times a day Congress has allowed him a salary of \$8,000. Other members get \$5,000.

\* The moment a man is elected Speaker, or President of the Senate, whatever innate modesty that he possesses comes to the surface. He shrinks from making official use of the pronoun of the first person. Should occasion require him to allude to himself, he sinks his individuality, as it were, and employs a figure of speech, known in literary circles as metonymy, by which he is enabled to substitute the arm-chair at his desk, for the man who occupies it. This explanation (which perhaps I ought to have introduced earlier) accounts for the recurrence of such expressions as, "The Chair thinks otherwise"; "The Chair overrules the point of order"; "The Chair hopes the gentleman will see the propriety of resuming his seat"; and so on. In the early and formative period of legislative customs, a Speaker, I dare say, might with equal propriety have adopted the expedient of identifying himself with the gavel, or even with the mace. It seems, however, that he did not.

\* It is a common practice for presiding officers before actually putting a vote to enquire "Is the House ready for the question?" A House rather likes to be deferred to in this manner. The words convey a flattering intimation that the Chair continues to be its humble servant, and stands prepared to wait and to endure more oratory should the House be of that humor.

*Metamorpho-  
sis*

*A bit of  
courtesy*

As a matter of fact, however, the Chair well knows that the House is as tired of the talking as he is. The polite enquiry, therefore, meets with no response save respectful silence; unless indeed (as sometimes occurs at the close of a debate already too long) impulsive voices from different parts of the chamber exclaim,—“Question, question.”

*Asks them*

\* The Chair thereupon announces: “As many as are in favor will say ‘Aye.’” After a moment’s pause, to measure the volume of ayes, the Chair continues, “Those opposed will say ‘No.’” At this, another shout arises. Have you ever noticed, gentle reader, how difficult it is to say “No,” when for instance you are cornered at a church-fair, or in a bar-room? Quite the reverse is it, I assure you, on the floor of a legislature; those who answer “No” do it in thunder tones. The noise they succeed in creating is far more out of proportion to their numbers than that of the affirmative. The Chair, however, soon acquires a trained ear that can allow for difference in lung power.

*Encouraging*

\* This mode of reaching a result is called voting *viva voce*; a term that would indicate that the process was known to the ancient Romans. Such is the fact. Some of our college-educated young men will, I am sure, take a deeper interest in their labor of reforming politics, when they perceive how slightly our modern form varies from that

which was in daily use in the Roman Senate. According to Pliny, it was the custom of the Consul presiding to put the question to vote as follows: "*Qui haec sentitis in hanc partem; qui alia omnia, in eam partem, ite, qua sentitis.*"<sup>1</sup>

\* The occupant of the chair, as I have said, has to judge by the ear on which side the larger number is voting. A formula much in vogue is—The ayes (or the noes, as the case may be) appear to have it; then after a slight pause, The ayes (or noes) have it. So strong is habit, that even where there is a shout of "aye," and no opposing sound in the negative, the Speaker will cautiously say that the ayes appear to have it, before he declares that the ayes do have it. If at a loss to determine on which side the preponderance lies, the Chair may ask another vote by voices, or may call for a show of hands.

*Keeping tally*

\* Necessarily there are many motions to which the individual member pays scant attention, content to rest assured that they come from committees whose recommendation is to him a sufficient guaranty that they ought to be agreed to. Knowledge of this fact may reconcile a constituent to the conduct of his representative, when upon his visit to the gallery he looks down and sees that honorable gentleman, instead

*Routine*

<sup>1</sup> Epistolae, Lib. VIII., ep. 14.

of actively voting upon every motion as it comes up,—absorbed in writing letters, or talking and laughing with his brother members, in apparent unconcern of what is going on.

*One man*

\* A solitary voice in the affirmative is enough to pass a bill, in cases where no opposition exists.<sup>1</sup> The larger the body, the more is it likely to happen at times that but a single member takes the trouble to go through the form of saying Aye. Indeed, it is not uncommon to hear a feeble "Aye" followed by half-a-dozen straggling "Noes," and yet the Speaker says the ayes appear to have it, and after the usual pause announces that the ayes in fact have it. When the real sentiment of the House is thus readily apparent, it may be said that only where a nearly equal division discloses itself, or where for some reason it is desired to learn just how many are on each side, is it thought worth while to take a further step for the purpose of ascertaining and announcing in precise terms the state of the vote.

*Division*

\* A member who is not satisfied with the result as declared by the Speaker, can demand a division, whereupon the Speaker

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<sup>1</sup> Toward the close of the last century the Duke of Somerset divided the House of Lords on the question of going to war with France. There appeared only himself in opposition to the motion, and he afterward caused a medal to be struck to the memory of "The Glorious Minority of One." *Random Recollections of the House of Commons*, page 84.



says "A division is called for; all those in favor of the motion will rise and be counted." After these votes have been enumerated, the opponents of the motion are called up. This performance, I may add, can be resorted to at the Speaker's own instance, should he find himself in doubt, after a call of voices. The purpose of a division, we are told, is not to take a vote anew, but to ascertain how members have already declared themselves by voice. Accordingly the rule has been laid down that where a member gives his vote with the ayes, and upon a division goes with the noes, the Speaker (his attention being called to the fact) will direct that the vote of that member be counted aye.

\* A more elaborate method of accomplishing the arithmetical task involved, is that of counting by tellers. Nobody of men now living retains a recollection of the time when tellers came into fashion in America. We are familiar with that standard parliamentary anecdote related by Gilbert Burnet in his "History of his Own Times" (1680), where Lord Grey and Lord Norris (the latter being subject to vapors) figure as tellers. "A very fat lord coming in, Lord Grey counted him for ten, as a jest at first, but seeing Lord Norris had not observed it, he went on with his misreckoning. So it was reported to the House, and declared that they who were for the bill were the majority,

*Tellers*

though it indeed went for the other side." The bill, as the reader very likely remembers, was a strict act, for the due execution of the writ of habeas corpus, and its passage was a triumph for the cause of liberty. This playful incident furnishes one more illustration of the good that is done in this world by the presence of the fat man.

*How tellers  
tell*

\* As a count by tellers consumes no little time, and thus may be used for purposes of obstructive delay, it is provided generally by rule that a certain fixed proportion of a quorum must unite in order to justify a demand for it. In the House of Representatives, it is one-fifth of a quorum. When the House evinces a desire for a count in this manner, the Speaker appoints to the office two gentlemen, representing the two sides of the question. The appointees come to the front, and shake hands cordially, as two prize-fighters might. This by way of indicating how pleased is each to have the *tête-à-tête*, and as a guaranty that there shall be an honest count. This introductory ceremony over, the two plant themselves facing each other, like gateposts, far enough apart for members to walk between in single file. Then, all who vote in the affirmative swarm down into the area in front, and begin one by one to pass between the tellers, who count each member as he goes through. The tellers

figure up the total, and report the result at the clerk's desk.

\* After the affirmative hosts, and a straggler or two besides, have gone through, the honorable members of a contrary mind are expected to pour down the aisle, and in similar manner to pass between tellers. More arithmetic is applied. The main body is disposed of, late-comers are accommodated to the tune of "one more in the negative," "two more in the affirmative," and so on. A total being reached at last, the figures are written down and handed to the presiding officer, who declares the vote.

\* The ceremony of taking a vote by tellers enables our statesmen to get a little exercise, and promotes good fellowship by bringing those of a like way of thinking into close contact for the moment. The procedure has the further merit of letting everybody present see who it is that is voting for, and who against, the measure.

*The Caudine  
Forks*

## CHAPTER XXXVI

### YEAS AND NAYS

*You were best to call them generally, man by man, according to the scrip.*

—MIDSUMMER NIGHT'S DREAM.

**W**HERE a vote is divided somewhat evenly, and the assembly is a large one, a resort to tellers is a more accurate, and therefore a more satisfactory method of numbering the voters on either side, than is a mere counting by the presiding officer, however carefully done. Then too it is to be remembered that the people outside are interested in the record of the vote. The taxpayers want to know what is going on. As sovereign people they demand to be kept informed whether A. voted right; how B. behaved when the crisis came; whether C. dodged, or D. did what he promised to do. For the purpose of making a record, a contrivance known as calling the Yeas and Nays, was invented,—a notable feature in the machinery of legislation.

*A safeguard*

\* The framers of the Constitution, keeping an eye on the great problem of how to preserve our liberties, took special pains to insert in that immortal document a clause providing that each House should keep a journal of its proceedings; and that the Yeas and Nays of the members of either

House, on any question, should, at the desire of one-fifth of those present, be entered on the journal.<sup>1</sup> There is no telling what would have become of us, if they had forgotten to attend to this. As it is, a plain American citizen can drop into the gallery after twelve o'clock, while Congress is in session, and generally count upon being afforded the pleasure of beholding a member rise, with the air of a statesman discharging a lofty constitutional function, and call impressively for the Yeas and Nays.

\* Every member, properly in the House when the question is put, has a right to vote, and he must cast his vote upon one side or the other. Should a member have a pecuniary interest in the result of the vote, he may by leave of the assembly be excused from voting. But everybody else must say yes, or no.

\* The right to vote, we ought constantly to bear in mind, is not a personal privilege that a member may exercise or not, as the whim seizes him. Behind the representative stands a constituency. A member's constituents are alive to the questions of the day. They mean to be felt, as well as heard from, on the floor. Hence it appears that it is no hardship whatever to a member that he is compelled to vote.

*Who may  
vote*

*The people*

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<sup>1</sup> Article 1, Section 5.

"Where was  
I at?"

\* Being "properly in the House" is a phrase that the great constitutional lawyers have had to take under advisement. The conclusion they have arrived at is, that it means a bodily presence, either in the room where the assembly sits, or in some room adjacent, reached only by passing through the assembly chamber. We perceive, therefore, that a member may be in the building, but not in the House. Alike, whether working over a bill in his committee-room, over a meal in the restaurant, or an obtuse constituent in the lobby, he may properly be regarded as not in the House. In the House of Representatives, at Washington, a member, to claim the right to vote must have been on the floor of the hall when the question was put, and not outside any of the doors leading to it. A member of a deliberative assembly ought to keep a sharp eye on himself, so as to know precisely where he is, at least until the hour of adjournment.

*Vigilance*

\* Representatives are not slow to learn how vital it is to be promptly on hand when the yeas and nays are called. Legislative chambers are fitted with wires running to electric bells in the committee-rooms, and in other retreats, so as to signal to members when they are wanted. Often a commendable energy is displayed to reach the floor. It is a legend of the Capitol that, a good while ago, an eminent statesman

chanced at one of these critical moments to be seated somewhere in the great, white marble building, in the seclusion of a barber's chair—his distinguished chin hidden under a cloud of lather, and his somewhat jaded, but still powerful, intellect passing slowly under the soothing influence of tonsorial shop-talk, tempered by the gentle recurrence of razor stropping. Word came that the fate of a bill of great import to the people of his locality was trembling in the balance, upon a call of the yeas and nays. With a leap from his seat the honorable gentleman vanished from view, and speeding to the scene of action appeared upon the floor at the very moment when a single vote would snatch the bill from defeat. He snatched it. It was a close shave.

\* The practice of "pairing," it is to be observed, is not sanctioned by all legislative bodies. Where the usage prevails, however, the clerk is directed to announce the pairs, at least once during the legislative day, after he has concluded reading the names of all who are recorded as having voted. A pair may be general, *i.e.*, upon all political questions; or it may be a special pair arranged for a single question only. So, it may extend through a considerable period, or last but for the day. We owe to England the custom of arranging a pair; and it has now come into general use upon this side of the water.

*Pairs*

*Pleases both*

\* By a mutual understanding two members who would have voted in opposite ways agree that one shall not vote in the absence of the other. Such an agreement, while it leaves the result unaffected, brings into mind the comforting reflection that the couple in question need not worry about the country at large while they are not on the spot to take care of it. Pairs were not recognized by the rules at Washington, it seems, until the year 1880, the second session of the Forty-sixth Congress. In Parliament pairing has long been conducted upon an extensive scale; and absenteeism is a practice so common as to excite little or no comment. It is understood, however, that pairs are treated there as a private arrangement purely, and that they are not recognized by any rule.



## CHAPTER XXXVII

### A POINT OR TWO ABOUT VOTING

*Nothing in the world, Trim, said my Uncle Toby, blowing his nose.*  
—STERNE.

WHEN an assembly is brought in to that frame of mind where it is willing to sit still and undergo a call of the yeas and nays, one would imagine that for once talk would be at an end. So it will be, if the previous question has been ordered; but otherwise the subject remains open for debate until the clerk has entered upon the calling of the list, and one member at least shall have responded to his name. This canon of practice appears to owe its existence to a flickering hope that, by some miracle, a single grain of wisdom can be lodged in the observations of a late comer into the field of discussion. So potential an influence has the power of speech over the imagination of men engaged in framing laws! On the other hand, let the ponderous machinery of a roll-call once be set in motion, and like a patented steel time-lock on a safe-deposit vault, there is no stopping, until it gets through.

\* To break in of a sudden upon the quiet humdrum of a call of the yeas and nays, even though the purpose be the intellectual

*Awkward  
business*

one of starting up debate afresh, is in the eye of the law to commit a serious offence. "It would lead," beautifully remarks a writer, whose name, age, sex, and post-office address have escaped my memory, "It would lead to almost inextricable confusion, and indirectly thwart if not defeat the will and order of the House." It would, indeed. I hope that no gentleman of refined sensibilities, certainly no American citizen, with mind refreshed and invigorated by a study of "Parliamentary Law in Easy Chapters," would be guilty of so gross a delinquency. Besides, it may be added that should a question arise, in the nature of a point of order, during a division, the Speaker is expected to decide it peremptorily, subject, of course, to the future censure of the House, if the ruling be irregular.

*Excuses*

\* The practice prevailing, I believe, in both hemispheres is, that members within the bar of an assembly when a question is put, are obliged to vote. This duty is of the terms of the contract entered into with the people who sent them there. As to the right, or propriety of a representative sitting in his place, and declining to vote, something will be said in a following chapter. At present we need consider only the grounds for excusing a member from acting with the rest, and casting his vote. The chief, indeed the sole, reason that will

justify one in refraining from voting is that he has a direct interest, personal or pecuniary, in the pending question. To meet this emergency the rules usually provide in terms that a member so situated shall not vote. Members need have no delicacy, where the prospect of their profiting by the result is reasonably remote. Thus it would seem that an appropriation for building a lunatic asylum, or a bill to enlarge the accommodation for guests at the penitentiary, may command properly enough the action of all hands.

\* Where the proposed legislation is likely to affect a class, and not simply individuals, a member is at liberty to vote. The pecuniary interest must be separate and distinct, and not one which he enjoys in common with his fellow-citizens. The member will consult his conscience. To vote that the House as a body go upon a railroad excursion, at the expense of the public treasury, is not to be reckoned, therefore, as morally sinful. Nice queries in casuistry are coming up regularly year after year, yet few members ever think of going to the chaplain about them. The best advice to be given to anybody who is morbidly disturbed is, that he state his perplexities to the editor of the nearest newspaper, clamoring for reform.

\* A member, we will suppose, has voted, and later on it is discovered that he had

*Interest—  
What?*

*Disallowed*

such a pecuniary interest in the measure at the time as by rule would disqualify him from voting. Can his vote be disallowed? Mr. Cushing<sup>1</sup> and the rest of us think there is no room for doubt. It can. It is done by a motion made for that purpose, following the same course of procedure that is adopted when, after a vote has been declared, it is ascertained that members have voted who were not in the House when the question was put. Inasmuch as I take it for granted that my readers will with practical unanimity refrain from voting, when they have no right to exercise that privilege, I do not think it necessary to devote further space to the consideration of this topic.

*The casting  
vote*

\* The man who pounds with the gavel has his hands full to preserve order, and to keep members well up to their work, without being saddled with the burden of having to make up his mind how to vote on every motion that comes along. So the law exempts the presiding officer from the duty of ranging himself with the ayes or the noes, except upon the rare occasions when the House finds itself split into halves. Unlike the famous friend of the schoolmen, between two bundles of hay, the Speaker goes to one side or the other. He votes.

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<sup>1</sup> Section 1839.

\* The books abound in much that is fine-spun and intricate upon the subject of the casting vote. The Constitution furnishes to the Vice President of the United States specific directions in this contingency. His path is plain. Not so with the Speaker. This officer represents a constituency; and a constituency has a right to make its presence felt upon the floor. Nathaniel Macon, of North Carolina, while Speaker, seized the opportunity, 9th January, 1803, to present his views on this interesting topic, and while doing so to brush away a cobweb or two. Who knows that some reader of mine may not climb to the pinnacle of fame, and when he gets there may not strike out something new in the line of the casting vote? I drop the hint as we go along.

*Bright  
lexicon, etc.*

## CHAPTER XXXVIII

### THE MINORITY

*Here the hammer fell.*

—CONGRESSIONAL RECORD,

*Vol. 21, No. 107, page 3939.*

**W**RITERS who have dugged down deep to where rests the underpinning of our democratic institutions tell us of a bed-rock principle, which is that in a government by the people, the majority rule. Nobody at this era of the world's progress is so blind as not to see that the objective point of the stump-speech, and of the torchlight procession, is to gain the majority vote. We now come to bestow our attention upon the poor, little legislative minority. Do they possess any rights worth speaking of? And if so, what are they?

*The  
difference*

\* A majority has to act; the minority talks. The one is for pushing bills through with no more discussion than is barely necessary; the other "views with alarm" the passage of this or that bill. The majority has no time to lose; the minority does not propose to be hurried. As for the leaders, aware that their party is held to render an account of stewardship, they want to pass the important bills as quickly as they can and adjourn, so as to keep the rank and file out of mischief. The minority calls up the spectre of hasty legislation. It enlarges

upon the truth, as if discovered only yesterday, that to kill a bad measure avails as much as to enact a good one.

\* The minority can always be depended upon to bustle about so as to make its presence felt. Whenever a small but compact minority sets out to intimidate and confound their more numerous brethren, it is truly surprising what tremendous billows of agitation they can set in motion. An impetuous orator who is going to be outvoted is often a sight to behold. He declares his purpose to stand by the Constitution, protect the people, Sir, and expose the infamous conduct of his friends on the other side, come what way. This lofty purpose he does not announce in a whisper, either.

\* Talk is a commodity that recommends itself to a minority in their hour of need. The supply used to come cheap. It used to come too in considerable quantities. But one day, as we have seen, a cold, unfeeling majority ruthlessly put into operation the previous question. For the Spartan band of a minority two ways remain of struggling to stave off a vote. The first is, to make a series of dilatory motions, one after another, exercising the high constitutional privilege of calling for the yeas and nays on each motion separately. The second is, where the arithmetic of the situation justifies it, to sit in their seats, and by silently ignoring the call of their names, to

*Spirits  
perturbed*

*Tactics*

succeed in being theoretically absent, and thus leave the House without a quorum. These two ingenious endeavors at stopping the onward progress of events constitute, I may say, the leading features of what is known in parliamentary circles as the heroic art of filibustering.

*Devices*

\* Great things can be done upon the critical question of approving yesterday's journal. The lever that the filibuster gets hold of, and of which he never lets go till he is forced to,—is the motion to adjourn. The motion to fix the day to which the House shall adjourn, was made a privileged motion in 1789, by the first Congress that met under the Constitution. It was dropped in 1890. The Thirty-sixth Congress made privileged the motion to take a recess. But the Fifty-first Congress deprived these motions of their privileged character, and adopted an entirely new rule, namely "No dilatory motion shall be entertained by the Speaker."<sup>1</sup>

*Speaking by  
the card*

\* Somebody who likes to count has looked through the Congressional Record, and is enabled thus to tell us that were two hundred and twenty-two roll calls, and calls of the House, during the first session of the Fiftieth Congress. Of these, one hundred and twenty-two were for filibustering purposes; eighty on one bill alone. At the

<sup>1</sup> Rule XVI., sec. 10.



first session of the Fifty-first Congress, the roll calls numbered four hundred and sixty, of which it is estimated that three hundred and sixty were purely obstructive. Allowing thirty minutes to each roll call (and that means quick work) it appears that thirty-six legislative days were thus consumed. Let us pause for a moment, and estimate what an array of bills for the amelioration of mankind might have gone through as the result of thirty-six days of hard work. In the second session of the Fiftieth Congress one man, who wanted to have his own way, showed the rest what one man could do (and a great House could not do) under the rules then in force. The Oklahoma filibustering, to the record of which the curious-minded may turn for edification, prepared the way for the radical change just specified.

\* The device of testing the sense of the House upon the question of adjournment, was not unknown to the distinguished gentlemen who from time to time have been charged with the duty of enacting laws on the banks of the Thames. From a sketchy little book entitled "Random Recollections of the House of Commons," I quote as follows: "The celebrated Mr. Sheridan on one occasion moved the adjournment of the House nineteen successive times, and had nineteen divisions on the subject, the one following the other as fast as they could be

*A British  
bulldog*

taken. The House, seeing it was only wasting time to resist the adjournment any longer, at last reluctantly yielded." <sup>1</sup> I borrow the passage, not so much to show what a model of perseverance "the celebrated Mr. Sheridan" must have been, as to hold up to lasting admiration a House of Commons so eminently discreet as not to be obstinate when it could see plainly that there was nothing to be gained thereby.

*Quorum  
breaking*

\* Passing away the time in a constant repetition of pointless motions, is not perhaps the best use to which a man may put his talents, but this much can be said of it: it wears at least the semblance of doing business. The other method of filibustering, however, has not in its favor even this poor excuse. I refer to the refusal of a minority to vote, when they discover that the number of those present on the opposite side is not a quorum of the House. In the doings of the Fifty-first Congress it came to be a very prominent feature. Directly connected herewith is the right assumed by Speaker Reed to count as present those members who sit in their seats, and refuse to vote. This Mr. R. proceeded to do—with what result the world that notices such matters perfectly well knows. The earth continued to roll on its axis. Now, it seems, spring, summer, autumn, and winter get along about as usual.

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<sup>1</sup> Page 55.

## CHAPTER XXXIX

### RECONSIDERATION

*If 't were done, when 'tis done.*

—MACBETH.

**S**TROLL with me into the lobby when the House is in session. Do you observe that sharp-featured six-footer, who has the stout gentleman in eye-glasses pinned up against the wall? How earnest he is, the tall man, I mean—and voluble. Did you ever see a talker more alive with gestures? The honorable member (for such is the other) wears that look of discomfort which a victim is apt to present when button-holed with no prospect of escape open. What does it mean? Simply that an outsider interested in a bill is on hand to look after it.

\* Your born politician can come out smilingly into the lobby, shake hands in cordial style, and lend an ear to the importunity of a visitor, with such an ingenious pretence of enjoying it all, that the interview seems a success. Then, after another shake of the hand, he can hasten back into the sacred precincts of the House, and as the doors swing to behind him he can with ease forget the man, and his talk. This is a gift that nature bestows sparingly. It is because we mortals are but ill-fitted to with-

*Vanity*

stand, face to face, assaults upon our good nature, and because poor humanity will get tired at last of argument and speech-making, that the rule applies universally, which makes a vote upon the merits final and conclusive. When one reflects what a member has to go through before reaching a point where he has the chance to say "Yes" or "No," one ceases to wonder that a vote means so much. The books tell us that the decision of a question once put to a deliberative assembly is the judgment of the assembly. It cannot be brought again into question. That is to say the same motion substantially cannot be put a second time.

*For instance*

\* The House, for example, has just ordered a bill to lie upon the table. A motion cannot be received on the same day to refer the bill to a committee. Or, a motion to lay on the table has been negatived, and no proceeding has taken place touching directly the merits of the measure; the motion to lay on the table cannot be repeated. The principle, however, does not forbid putting the same question at different stages of a bill. So, upon a report from a committee, questions that were put and decided before the bill was committed may be renewed. These latter motions, it is to be observed, do not involve an assumption that the House is of a sudden going to change its mind.

\* The motto *Nulla vestigia retrorsum* looks well, in gilt letters, hanging on the wall of a school-room. It is Latin, to begin with; and so pleases the parents on examination day. Viewed as the expression of an abstract principle, suitable for the regulation of conduct, it is superfine. Givers of advice to the young are accustomed to put forward this phrase as a stimulus to what they are pleased to call "noble exertion." So far as it has a practical meaning, it can be said to outline a sound dogma of parliamentary ethics. In a rough way it may be stated that usually an assembly will not go back to undo what has once been done.

*Taking the  
back track*

\* If paying a man three dollars a day and mileage for thinking about the public business would of itself make him wise above his fellows, we might look to see legislative doings happily transacted. But our representatives, much as we honor and revere them, are after all but human. Now and then you can even get one of them to admit that such is the fact. Hence we perceive that they are as liable to make mistakes as a clerk in a drug store, or the average run of petty juries. A House will at times allow itself to become inattentive to what is passing,—a bill, for instance. It likes to have a chance to correct errors of inadvertence.

*The sober,  
second, etc.*

\* It is a subject of just pride that, along with our reapers, and our rifles, our railroad and

*Motion to  
reconsider*

our electric appliances, the United States of America can boast of having called into existence the motion to reconsider. Like many other inventions, it was born of necessity. Who first conceived the idea, I am unable to state. The records of the Patent Office, crammed as they are with all sorts of information, fail to disclose his name. If I only knew the gentleman, it would be a pleasure to give to him honorable mention in these pages.<sup>1</sup> There is authority for saying that the Congress of the Confederation were not unacquainted with the motion to reconsider.

*Its  
peculiarities*

\* An opportunity to reconsider a vote has proved so useful an expedient that provision therefor may now be said to be a settled principle of parliamentary practice. The assembly takes care to prescribe by rule certain restrictions in order to prevent abuse. For example, it is customary to require that the motion be made by one who had voted with the majority. By majority is meant the prevailing party; so, if a question has been lost by a tie vote, a member who went in the negative is entitled to move a reconsideration. A member present and not voting is treated, in cases where

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<sup>1</sup> It has sometimes seemed as though possibly the late Thomas Hart Benton, of Missouri, is entitled to this distinction; but it is clear that if he had started it, he would have thought to mention the fact in his great work about Benton, in two octavo volumes, entitled "Thirty Years in the United States Senate, by Thomas H. Benton."

no division has taken place, as having voted with the majority.

\* In Congress a motion to reconsider takes precedence of all other motions, except that to adjourn. But a motion is not in order to reconsider a vote by which the House has refused to adjourn; nor can a vote on a motion to suspend the rule be reconsidered. The reader will be pleased, I know, to learn that a motion to reconsider is not debatable. It is indeed refreshing, now that time has got to be so valuable a commodity in the transaction of Congressional business, to hear of a motion upon the floor of Congress that cannot be made the subject of debate.

\* By a standing rule of the Senate, a motion to reconsider may be made on the same day, or on either of the next two days of actual session; and in the House such a motion must be made on the same, or on the succeeding day. Thus we perceive no time is to be lost, if we would set things to rights; for the step has to be taken while the legislature still has the subject fresh in mind. In regard to this requirement, I feel sure that the reader will agree with me, that it is as it should be. It is pleasant thus to have us all four, the Senate, the House, the reader, and myself, united in sentiment.

*In the  
District of  
Columbia*

*Must be  
prompt*

## CHAPTER XL

### COMMITTEES—HOW APPOINTED

*Men are like strawberries in a box—the big ones go to the top.*  
—SARSFIELD YOUNG.

**I**N an earlier chapter where the discourse lightly touches upon the topic of working by committee, was not a hint let fall that at a later stage something would be said of the methods adopted to sort members into their places upon the standing committees? To deal fairly with my confiding reader, I shall ask the privilege of piloting him once more along the corridors, so as to let him peep with me into a committee-room.

*A coup  
d'œil*

\* One would not go far amiss should he describe the legislature of to-day as a bundle of committees. Years ago, when the volume of public business was as nothing compared with what it has now become, when telegraphs, railroads, and corners in stock were unknown, and when nobody appeared to be pressed for time, the floor of the House used to be a place for actual debate. Speeches were made. Every member with a tongue to wag had a chance to talk things over. But times have changed. There has been an enormous increase in the public business. It goes without saying that the old twenty-four



hours to the day do not now admit of anything like the same generous allotment of time being handed over to general debate, that our progenitors were in the habit of providing. Of late years the real work of the session has been done in the committee-room, with the result that the House itself does not much incline to depart from conclusions that have there been deliberately reached. A change, so marked as this in the method of passing bills, affords opportunity for those who scent danger in the air, to favor the country with their forebodings of what is going to become of us and our institutions; but it suffices here simply to note the fact that the tendency of the age has been to enlarge the power and influence of committees, and thereby greatly curtail debate upon the floor.

\* An assembly intends that every member shall do his share of work. It provides therefore a list of standing committees, so that no subject that is likely to come up for consideration shall be without an appropriate place of reference.<sup>1</sup> Select committees

*Much variety*

<sup>1</sup> Taking up in turn the several States of the Union, one may come across a pleasing variety of topics, that are from time to time occupying the legislative mind, as for example "The State Prison," "Swamp and Overflowed Lands," "Chinese Immigration," "State Medicine," "Health and Vital Statistics," "Ditches and Drains," "Geology and Science," "The Chesapeake Bay and its Tributaries," "Retrenchment and Economy," "Alteration of Names," "Fisheries," "Public Morals," "Temperance," "Sales of Real Estate," "Live Stock and Dairying," "Special Legislation," "The Rights and Privileges of Inhabitants of the States," "Vini-culture and Viticulture," "Inspections," "Enrolled Bills," "Natural Resources," etc.

are made up, as the term implies, for the occasion. Any conceivable subject that the assembly in its wisdom shall see fit to enquire into may be sent for consideration to a select committee.

*A sinecure*

\* To be one of a committee means ordinarily to be assigned to work. It happens sometimes, however, that a committee is distinguished by the circumstance that it has nothing whatever to do. Long after there was need of it the machinery used to be set up at Washington, session after session, for the due consideration of revolutionary pensions. So of revolutionary war claims. But Congress may be pardoned perhaps for assuming that war claims, like "kind words," never die.

*Who  
appoints*

\* Assemblies usually provide by rule that all committees shall be appointed by the Speaker, unless otherwise directed. The duty thus imposed upon the Speaker of selecting gentlemen who shall compose the various committees is, I need hardly add, of the first magnitude.

*The  
listening  
House*

\* A moment of suspense is reached just before the clerk begins to read the names. Quiet prevails, when that officer proceeds with the list; and the world learns to whom the prizes come, and who draws a blank. There is a ticking in the telegraph office, and the newspapers print the list of committees. Comments are then in order.

\* Mrs. Smith hears from her husband.

John goes on to remark pretty emphatically that the delegation are all worked up; terribly indignant are the delegation. They are going to have it explained how it happens that the Speaker after promising that he (Mr. Smith) should be assigned a place suited to his talents and reputation, after giving the delegation to understand that it was "all fixed," how it happens that the Speaker has gone to work and put him (Smith) down on an obscure committee,—and not even chairman of that. Mrs. Smith loses no time in telling her circle of friends that the delegation are bound to have satisfaction. "Perfect outrage, John says the delegation says."

*The beauty  
of it*

\* As for Brown, he writes home that he could have had a chairmanship, but he did not care for it; while Jones lets fall no comment in particular upon the subject. He remarks merely that if the Speaker had had any brains, he would not have made the mess of it that he has done. Yet there are a few (most of them chairmen) who appear to take the whole business philosophically.

*Here's  
another*

## CHAPTER XLI

### COMMITTEES—THEIR FUNCTIONS

*Ful often time he hadde the bord begonne.*

—THE CANTERBURY TALES.

AS a first step towards getting into shape for business, a committee has to effect an organization. As soon as may be after committees are announced, the members who have been designed to serve together meet in a room, assigned for their occupancy, conveniently near to the chamber where the sessions of the assembly are held. The room is usually furnished with a long table, at the sides of which are ranged comfortable arm-chairs. One chair stands at the head of the table. In well-regulated committee-rooms there is to be seen also, opposite to each chair, a drawer in the table under lock and key, convenient for bills, petitions, cigars, marked copies of newspapers, and other articles indispensable for carrying forward legislation. Also a nice lot of stationery, so that no great thought surging in the legislative brain may perish for lack of opportunity to commit it to writing. A book-case, it may be, adorns the apartment, its shelves carrying rows of that standard literature one sometimes runs across at a junk-shop. Over by the window stands

the clerk's desk (if the committee have a clerk) that is stocked well with documents and papers.

\* The somewhat imposing personage who sits at the head of the table is, as you readily guess, the chairman; for a committee must needs have somebody to take command, just as a canal-boat has its captain. The chairman calls the meetings of his committee, distributes the work, puts questions to a vote, and makes himself generally useful. The honor of a chairmanship is yielded by custom to the member named first upon the committee. While the law permits a committee to choose its own chairman, the established usage is that the gentleman who heads the list shall enjoy the distinction of presiding over his associates. It would be a grave reason indeed that should warrant a departure from this time-honored custom. Below the chairman, other members range themselves at the table in the order of precedence, according as their names stand upon the list. When the chairman is detained, the member present whose name comes highest on the list presides.

*The  
chairman*

\* In some committees they are able to dispense with a clerk, but where there is work for a clerk to do, a quick, active young man of methodical habits will find his services in demand. A clerk keeps the docket, entering therein minutes of the action of

*The clerk*

the committee upon bills and resolutions submitted for their consideration. He conducts the correspondence, looks after bills, petitions, reports, and various other documents belonging to the committee; besides having an eye to the room and its contents, at times when the committee are not in session. Upon the shoulders of the clerk (unless the committee have a messenger) rests the duty of opening the door when a knock is heard, and of conveying to the outsider in a tone bordering upon the mysterious, the information that the committee are in session and cannot be disturbed. The fitness of a clerk for his duties, or the lack of it, will at once make itself felt in the work of the committee, with an effect, it is not too much to say, equal to that of the chairman himself. A clerk should be systematic, and of orderly habits. One of the many trying duties that falls to his lot is to keep track of official papers. While in training at this branch of the business he is likely to learn with what ability some statesmen can contrive to make a bill, and all the original papers thereto pertaining, disappear, and stay disappeared up to the very last hour of the session.

*The outs*

\* The post of clerk to a committee, in this free republic, seldom goes a-begging. Numerous applicants give notice that they are willing to accept the salary. The right to name who shall act as clerk is a priv-

ilege usually conceded to the chairman; who is presumed to study the situation with an eye single to the public interest.

\* Instances have been known, however, where the chairman is blessed with a son, that the family look upon as possessing talents of a remarkable order. The young man very likely has dedicated his talents to the law, and by reading his father's speeches and otherwise, is preparing himself to enter upon a career. After looking over the entire field the chairman feels that he must require his offspring to forego other engagements and take up the burden of a clerkship. With a filial instinct, the youth obeys, thus averting the disaster of having the monthly salary paid to some one outside of the family.

*Family  
thoughtful-  
ness*

\* A committee does not continue sitting while the House itself is in actual session, unless it be permitted by a vote so to do. When the hour arrives for the House to come to order, a bustle ensues in committee-rooms, and proceedings are rapidly brought to a close. The people have a right to be present, in the person of their representatives, at each and every moment of the session, for the purpose of seeing to it that no mischief is done. Hence punctual and continual attendance is not merely a commendable habit; it rises to the point of being a political duty. For a committee to obtain leave to sit during the session of

*When may  
sit*



the House is a task of no great magnitude. Where a few individuals evince an inclination to keep at work, it clearly appears to be the duty of everybody else to let them have their own way about it.

*Allowed  
privacy*

\* It is the custom of most legislative bodies to hold committee meetings in the morning. The legislative brain is supposed to be at its best at this time of day. Where business is unusually brisk resort may be had to an evening session. As a matter of fact the members of a committee are expected to get together, at the call of the chairman, at such hours as best serve their convenience. The meetings are private, but public hearings may be granted to interested parties. Investigations are of modern invention. Being designed to startle the country with a revelation of the terrible state of things existing in the administration of affairs by "the other side," they are conducted ordinarily with open doors, in the presence of the people and of the newspaper reporters. But committees carry on their discussions all by themselves. It is not etiquette to intrude at these sances. No matter how animated the proceedings may be, or how great the temptation to lift the veil, it is considered highly improper and unparliamentary in a member to refer in his remarks upon the floor to what has been said in committee.

*Recess*

\* Similarly, where members are of opinion



that they ought to devote a portion of their valuable time to public business during a recess of the assembly, as a committee, it is necessary to obtain authority by formal vote. So a House may empower a committee to depart from the locality where the House is sitting, and go into another part of the country and there hold its sessions, examine witnesses and make a stir generally.

\* Standing committees vary in numbers from three to fifteen, or even more members, according to the size of the body appointing them, or the nature of the services that they are expected to render. An odd number is commonly selected, so as to avoid the possibility of a tie upon a full vote. That it may deal with more subjects, and at the same time secure from the individual member a closer degree of attention to the business in hand, a large committee will divide itself into sub-committees. Three is a convenient number for a sub-committee. They may assign the bill to one of their number, who makes it the subject of his special study. When ready, he will report his views upon the proposed measure to the sub-committee; the latter in turn report to the full committee; and it is from the full committee that a report is brought into the House.

\* A member is expected to exhibit in the committee-room just as much deportment

*Sub-  
committees*

*As to  
behavior*

and *savoir faire* as he would display upon the floor of the House, where the eyes of the whole assembly and of the galleries are upon him. The chairman will take care that everybody behaves well, and that a tone of decorum and dignity mark the proceedings. Should any one forget himself so far as to be guilty of disorderly conduct, neither the chairman nor the committee have power to punish him; they can only quell the disturbance, and report the facts at once to the House. So, where a witness is refractory, or refuses to answer a question, it becomes the duty of the committee to report the matter to the House, that the majesty of the law may be vindicated.

*Has its  
rules*

\* A committee can no more get along without rules than can the House itself. The chairman entertains motions and puts questions, just as if the group before him were itself a deliberative assembly, and he its Speaker. A majority of the committee constitutes a quorum for business; though under the later practice, in both Houses of Congress, committees have the power to fix their own quorum. What with looking up the right kind of seeds for an agricultural population at home, and trying to secure pensions, salaried offices, and other desirable arrangements for their needy constituents, our senators and representatives have to move around Washington at a lively rate in order to get their errands

done of a morning, so that there shall be no empty chairs at committee meetings.

\* Should a member leave the committee-room, and thus reduce the number present below a quorum, those who remain can keep on deliberating, so long as nobody is kind enough to call attention to the fact that the quorum has vanished. If a lack of a quorum be disclosed, no vote can be taken. The House of Representatives at Washington curbs the appetite of Congressmen for overwork, by providing that a committee may not report a bill where the subject-matter has not first been referred to it by the rules, or otherwise.

\* Upon the adjournment *sine die* of a legislature, all committees cease to exist. The Senate of the United States, however, being a permanent body, its committees do not expire with the winding up of a Congress.

*Sundries*

*Exeunt omnes*

## CHAPTER XLII

### COMMITTEE OF THE WHOLE HOUSE

*"So say we all of us."*

—FAMILIAR REFRAIN.

A HOUSE may resolve itself into a committee of the whole House. That is, all the members sit together as one committee, and strictly speaking not as a House. The Speaker leaves the chair, and another takes his place who presides as chairman of this grand committee. An assembly can convert itself into a committee of the whole, and then back again into the House, with rapidity and ease. When the Speaker vacates the chair, the sergeant-at-arms removes the mace, as a signal that it is no longer the House that is in session. But inasmuch as it may be necessary at any moment for the committee to rise and the House go into session again (a message from the other branch may require it), the Speaker and his faithful mace-bearer remain on the premises within ready call.

*Two kinds*

\* Under the Constitution the House of Representatives holds the purse-strings, and like almost everybody else who acts in that capacity, it holds them tightly. One of its rules provides that all motions involving a tax upon the people, or bills appro-

priating money, must first be considered in a committee of the whole. There are two of these committees; one, a committee of the whole house upon the state of the Union, to which public bills and public business are referred. To the other go private bills and private business; and it is styled, The committee of the whole house. A creditor who is trying to get the United States to pay what it owes him, has the comfort of realizing that his aggressive attitude does not in the least disturb the state of the Union.

\* A quorum is as essential for the transaction of business in a committee of the whole, as in the House itself. Whenever it is made to appear to the chairman that a quorum is not present, it becomes his duty to have the roll called; and after that ceremony is ended the committee rises, when the chairman reports to the Speaker that there is, or is not a quorum, as the case may be, and action is taken accordingly. A motion to adjourn may be carried, or a call of the House will be ordered. In the latter event, absentees are sent for, and the sergeant-at-arms with his deputies scour the vicinage for delinquents, who when caught are escorted into the chamber, and down the aisle. As the missing members one by one come into the presence of their more virtuous brethren, each is expected to lay before the Speaker such excuse for ab-

*Quorum  
again*

sence as may, upon the spur of the moment, occur to him. At Washington, these occasions are signalized by a display of wit and humor, peculiarly congressional, which is permitted to trickle down to posterity through the channel of the Record.

*Why they  
like it*

\* The rule that no member shall speak more than once to the same question does not hold in committee of the whole.

*Forbidden*

\* With all this to be credited in its favor, it must be confessed that the committee of the whole, as a parliamentary contrivance, is chiefly remarkable for the things that cannot be done in it. In a committee of the whole, the previous question cannot be moved; nor can a motion there be made to lay on the table; nor, to postpone indefinitely, or to a day certain. Another disability is, that the committee may not entertain a matter of privilege. Again the committee cannot take the yeas and nays. Nor can it reconsider a vote, nor adjourn. In a word, it acts as a preliminary or advisory body, much as does a standing or select committee. As illustrating the real character of a committee of the whole House, it may be added that in the British House of Commons, whence we borrow the institution, the chairman of a committee of the whole occupies the chair of the clerk, and not that of the Speaker. When it comes to the outward trappings, we hardly go so far as that in America.

\* Amid the rapid interchange of ideas that is going on constantly in committee of the whole, it would be strange were not scenes now and then to occur of an exciting nature. At the first sign of a storm brewing, the chairman should call the parties to order. If all does not quickly become smooth, he will entertain a motion that the committee do now rise, which being carried, he reports to the Speaker that the committee has risen, stating why it has done so. In this respect a committee of the whole House acts precisely as would one of the standing committees, with a badly behaved member on its hands. To the uninitiated, it may seem strange that the chairman should go to the trouble of telling the Speaker what that gentleman in all human probability knows perfectly well already; but in public affairs many an incident takes place before a man's eyes, of which he sees nothing, for the simple reason that he is not looking officially at what is going on.

*Disorderly  
conduct*

\* The chairman of the committee of the whole is empowered to administer an oath to witnesses in a case under its examination. But when the House has fixed the hour at which debate shall close, the chairman may not entertain a request for an extension; nor can the committee, even by unanimous consent, extend the time. Members like to be invited to preside over

*His powers*

the committee of the whole, since the post of chairman proves to be an admirable training-school for the higher office of Speaker. Then, again, it is to be remembered that a large proportion of the ladies who look down so bewitchingly from the gallery, know nothing of the difference.

*Five minutes*

\* When the House goes into committee of the whole, bills are taken up in their regular order on the calendar, unless the House has voted to proceed to the consideration of a particular measure. Taught by experience, Congressmen have at last settled upon five minutes (or 300 seconds) as the right stretch of time to let each other talk. A new member of Congress after studying clause five of rule xxiii. learns how he can obtain an inning, when general debate is closed, by moving to strike out the last word. When tired of listening, the remedy is to move that the committee do now rise, and report. The Speaker takes the chair, and a motion is carried through the House, closing debate on the section of the bill then under consideration, after which the House, if it choose, can again go into Committee. At least, that used to be the method. Now, the committee itself in many bodies has power to close the debate, thus obviating the need of resorting to the roundabout method of the text.

*The Senate style*

\* The Senate of the United States is obliged to maintain a reputation for dignity. This



accounts for the fact that it does not permit itself to be shifting alternately in and out of a committee of the whole. The Senate is not a very numerous body, and its cloak-rooms are reached more easily than is the corresponding shelter upon the House side. Hence for years there has existed a disposition among the honorable Senators to let each other talk just as long and as often as the oratorical instinct prompts. In order to compass this fraternal purpose, the Senate, instead of going into committee, is accustomed to act under an order that provides for the discussion of pending subjects *as in committee of the whole*. Mr. Jefferson terms this situation a *quasi* committee. Indeed, he outlines a picture where the *quasi* committee stands *in statu quo*, a Latin predicament, as to which the reader, curious to know what comes of it, may turn to Section XXX. of the famous Manual, and learn for himself.

## CHAPTER XLIII

### CONFERENCE COMMITTEES

*That obstinate other man.*

—SMITH.

**C**OMMITTEES of conference are designed to furnish the means of bringing about harmony between two Houses, when a divergence of views exists as to the form in which a bill shall be enacted into a statute. Were men so constituted that two branches of a legislature could always be counted on to think alike, there would be no differences to settle. Such, however, is not the way in which human nature disports itself. More or less friction is sure to exist between a Senate and House, even where the two bodies are in political agreement. Each body is disposed to think highly of its own moderate but firm stand, and to deplore the wilful obstinacy of the other. The only way out of the dilemma is to send the subject-matter to a special tribunal, termed a committee of conference, made up from each body. \* A conference committee is unique. It is not a heterogeneous body, acting as one committee (nothing like the celebrated Siamese twins, for instance), but two committees, each of which acts separately by its own majority. At least, that is what the

*How  
made up*

Congressional Globe assures us, at volume fifteen, page one thousand, one hundred and seventy-nine. The presiding officer names the members, usually three, who meet a corresponding number from the other House. The public is not advised of what is going on, for the committee does its peace-making behind closed doors. They talk. It is a give-and-take procedure—with more disposition to the latter than to the former. It is a settled rule that the committee cannot consider and report to their respective Houses any new matter or proposition not in dispute; they must stick to so much of the text as the two Houses are at loggerheads over; that is to say, they may treat only of certain specific amendments, though additional matter germane to any particular amendment is in order.

\* From time to time the respective trios come out into the open and report progress, or a lack of it. The legislative mind always indulges the hope that by careful nursing a bill may “pull through” (if one may borrow an elegant expression from our medical friends), so that the presentation of a conference report is at all times in order, save only while the journal is being read, or during a call of the roll, or a division of the House. Offering a conference report takes precedence even of a motion to adjourn; and is more highly privileged than an election case, which is saying a good

*What ho,  
there!*

deal. You may not amend the report of a committee of conference. Like an offer of marriage to the fat woman in the dime museum, it must be adopted or rejected in its entirety. Nor can the report be laid upon the table.

*Further  
particulars*

\* Of three members, two must join in signing a report. As may be conjectured, the fate of more than one measure during the closing hours of a session hangs upon the decision of a conference committee. It is a moment for mutual concession. A report will come into the House, two or three or even more times; and the little Spartan band are bade to return to the contest under instructions of the perish-in-the-last-ditch order. When they appear next, it is to explain in as few words as possible why they surrendered, and how the others surrendered more than they did. Seeing that everybody is impatient to get away, it is by no means strange that of a sudden a virtue is thus made of necessity, the report agreed to, and the bill sent travelling toward the Executive at railroad speed.

*A soothing  
reflection*

\* If the reader be disposed to condemn this apparently headlong style of statute-making, I presume I cannot stop him. That he may not, however, despair wholly of the republic, I revive in his memory the following words from one of the wisest of statesmen: "All government—indeed, every human benefit and enjoyment, every virtue

and every prudent act, is founded on compromise and barter. We balance inconveniences. We give and take; we remit some rights that we may enjoy others, and we choose rather to be happy than subtle disputants." <sup>1</sup>

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<sup>1</sup> Edmund Burke.

## CHAPTER XLIV

### THE CALENDAR

*In Parliament I fill my seat  
With many other noodles.*

W. MACKWORTH PRAED.

**T**HE prosperity of a certain railway company in British India being a topic of conversation, somebody remarked that its financial success was due to the superb discipline under which every man in the company's employ had been brought. There came a message one day to the manager's office, from an agent down the line, in charge of one of the smaller stations, that read as follows: "Tiger jumping around on platform. Telegraph instructions." System is everything. To be sure the Solar system isn't, according to the later astronomers; but I am speaking of organized human effort.

*Multitudi-  
nous*

\* A seat in a legislative assembly is not a fit place for the constitutionally lazy man. The statute-book seems to stand in perpetual need of overhauling. Petitions and bills, resolutions and orders, addresses and memorials, investigations and reports, reforms to be instituted, abuses to be corrected, remedies to be applied, laws to be amended or repealed,—these, with much more besides, and all to be rounded off by

a vote of thanks to the presiding officer "for the uniform ability and courtesy, and so forth,"—are enough to keep members immersed in state affairs from morning to night, with 'scant intermission for meals, or chance to snatch a moment to go and receipt for an instalment of salary. The explanation is simple. A great many people means a great many projects. Few are content to let well enough alone. Hence of the tinkering to be set in motion year after year, there would seem to be literally no end.

\* To every bill or resolution it is proper that there should be assigned a place upon some list, or calendar, where it can be found readily when looked for. In fact, a printed legislative calendar is indispensable. It not only enables members to see at a glance what bills are likely to be in order for consideration on a particular day; but it performs the equally useful office of keeping the outside world informed as to the condition of the public business. *A guide*

\* Calendars grow apace and get unwieldy. In the House of Representatives, at Washington, there are so many bills reported from the various committees that, as the phrase goes, they "burden the calendar." It has come to be a common saying on the shores of the Potomac that the private calendar of the House is the graveyard of bills. *Its size*

*One day  
only*

\* The calendar in the House, and in the Senate, at Washington, is a daily publication, containing the latest news, up to the hour of going to press, on the subject of reported bills and resolutions. In this field it has no rival. Its circulation is limited to the Capitol. By the liberal use of printer's ink, each senator and representative is enabled to find lying upon his desk on the morning of every working-day a copy of the calendar, fresh from that prolific publishing-house, the government printing office.

*Will o' the  
wisp*

\* If your hopes are centred upon a private bill, you may be able to argue yourself into a belief that progress is really accomplished, when for the first time you catch a sight of the familiar title of your bill stretching across the page of a calendar, in good, clear type, and numbered four thousand and something. You feel encouraged. It looks like business. Your bill—so fair in terms, so just in principle—lies there, snug, and ready to be taken up some fine day. So do other bills!



## CHAPTER XLV

### ON CONTEMPT

*In a dungeon deep him threw without remorse.*

—SPENSER.

**I**N this sinful world, among other evil-doers, there will be found an occasional conscience-seared individual who has been guilty of committing an offence against the dignity of a legislative assembly. It is a dangerous thing for him to have done. The culprit, if apprehended, is promptly brought to the bar of the House. Here he has to speak up, and let the good men who make our laws hear what he has to say for himself. There looms before him a prospect of condign punishment for his temerity. Not only this; he courts the added danger of having his name in scare-lines, and an alleged portrait, appear in the morning papers.

\* The scope of the present ingenious work does not permit of extended remark upon the interesting and lively subject of the power of a legislative assembly to punish for contempt. The Parliament of England from the earliest times has made short work of troubles of this description. It has found the Tower handy as an adjunct to the business transacted at Westminster Hall. But the Parliament of England, it must be borne in mind, can do almost anything. It

*John Bull's  
way*

*The  
American  
method*

is a court; the highest court, indeed, of the realm, and like other courts it has an inherent power to punish for contempt.

\* Our State legislatures usually have power under the State constitutions to punish for contempt. Formerly an idea prevailed that in the direction of punishing offenders both Houses of Congress were as omnipotent as Parliament; but in later days when the House of Representatives undertook to make an American citizen disclose matters concerning his private affairs, they were politely told in effect that it was none of their business. The witness refused to answer the question put to him, and as a result found himself boarding for several weeks in the jail of the District of Columbia. When he got out into the open, he sued the sergeant-at-arms for trespass, and had the satisfaction of gaining a handsome verdict. The case found its way to the Supreme Court of the United States, which tribunal took occasion to look a little more closely into the powers of Congress in this particular. The outcome has been that the learned Justices are unable to discover in the Constitution of the United States any general power vested in either House to punish for contempt.<sup>1</sup>

<sup>1</sup> *Kilbourn v. Thompson*, 103 U. S., 168. The learned Justices say that the attempt of the representatives to inquire into the private affairs of a citizen was unlawful. They very discreetly refrain, however, from deciding whether this power does as a matter of fact exist in either House of Congress. Judicial fog still envelops the question.

\* But the decision affords little protection to any misguided individual who would presume to conduct himself in a disorderly or contumacious manner before a committee of Congress. The Revised Statutes of the United States guard against just such an emergency. If any reader of mine, therefore, shall happen to be invited to Washington by due process, to appear before a committee of the House or Senate, he must not stay away, nor, when he appears upon the scene, refuse to answer a pertinent question. Otherwise his rashness will be treated as a misdemeanor, with the prospect open to him of paying a fine, and taking up quarters in jail, where he may have to tarry not less than a month, nor more than twelve months. We must respect our legislators, even if we have to.

\* Happily there is little disposition on the part of the American citizen to evince disrespect to the legislature,—except in the newspapers. We sustain our law-makers not only by giving to each of them the title of Honorable, but by according to them as a body our confidence for their honest efforts, and our esteem for performing their task in the main with fidelity. Hence the instances of censurable conduct of parties other than that of the members themselves are not numerous.

\* Scattered here and there, through the pages of the Congressional Globe and Rec-

*A word of  
caution*

*Lift the hat*

*The unruly*

ord, are the minutes of proceedings taken to uphold the dignity of the House as against an individual member who has flagrantly transgressed its rules. The severe remedy of expulsion has been resorted to very rarely indeed. The House has from time to time incarcerated a few misdoers—chiefly newspaper reporters, who, in their zeal to serve the public, have forgotten to keep their hands off papers that did not belong to them. Sometimes the text of a treaty has been pilfered and prematurely published in a morning newspaper. The enterprising correspondent glories in the punishment awarded him for his refusal to reveal the circumstances of his daring act, for it only helps to advertise still more ingeniously the "Daily Freebooter." The term of imprisonment expires with the adjournment of Congress (if not before), and the incident is soon forgotten.

## CHAPTER XLVI

### ADJOURNED SINE DIE

*Go lyttell Booke, do thy indevoure.*

—THE TALE OF NARCISSUS (1560),

Introduction to Translation.

WHILE we, peeping leisurely over the gallery rail, have been edified and amused by turns at the sight of our fellow-man disporting himself officially below, the pages of this unpretending little volume have gone steadily forward, until now I find it my duty to acquaint the reader with the fact that he has entered into what must of necessity be our concluding chapter. I shall the more regret to part company, since a variety of topics yet remains, whose discussion otherwise we might very likely enjoy together.

\* Take for instance Enrolled Bills, a subject not calculated to stir the emotions, or bring into play the finer feelings of our nature, yet well worthy our consideration. A friendly chat on Enrolled Bills, with the reader situated so that he cannot get away might, I imagine, impart an idea or two not wholly unprofitable.

\* Then there is the veto power, an institution that really comes down to us with the Latin grammar from ancient Rome; now, however, so thoroughly at home with us

*Topics*

*Another  
topic*

that some politicians think it an American invention. Space might be occupied to some purpose in telling what is the usual procedure of the House when, after having been at the trouble of passing a bill, it has the bill sent back with a message from the Executive to the effect that, being of a different way of thinking, he presents his compliments and begs to be excused from signing it. Crowds of business men daily travel by rail or boat, yet how few are aware that a vote upon the passage of a bill over the veto of the President cannot be reconsidered. Such, however, is the fact. How few of our most respectable citizens ever stop to reflect that the House of Representatives at Washington has in its wisdom ordained that such a communication from the White House may be referred to a committee, and the bill itself laid upon the table. A thirst for knowledge might lead on to much curious information about vetoes, including precisely what is meant by a "pocket-veto."

*Bric-à-brac*

\* One might also linger a while over mileage. It is a subject fruitful of suggestions. Our public men have to be transported from their homes to their legislative seats, and back again. There are few situations so calculated to engross the attention of a member-elect, at the very threshold of his public duty, as the problem how to cipher out constructive mileage.

\* Many a reader, I dare say, entertains a reasonable degree of curiosity with regard to resignations. Sometimes resignations occur; not so frequently perhaps as constituents would like, but then they do occur. Naturally the public are interested to observe how his brethren deal with that one of their number who voluntarily surrenders his seat, salary, and perquisites. They never stop him.

\* Then again, while on the lookout for topics, surely something might be written about the "Files of the House." This is a title pervaded, I fancy, with a kind of down-cellar flavor. It brings a whiff from remote, dark, and secret corners. It whispers of romances buried and hopes scattered; at least, it would, if we only had time to open it up.

*Et cetera*

\* "Clearing the galleries" is still another theme upon which much might be said to divert the reader. The Senate of the United States holds secret sessions; or sessions called secret. Can it be possible that well-dressed ladies and gentlemen, in this boasted land of liberty, in a building owned by the tax-payers, and over which the star-spangled banner is proudly floated, are told in cold, official language that they may not remain upstairs upon these occasions?

*Last words*

\* The reader will perceive that this valiant little work need not here come to an end

for lack of topics to talk about. But the object we have all along kept in view has, we hope, been in the main 'accomplished. That object was to awaken curiosity, and to impart to the reader some interest in the underlying principles of parliamentary practice.



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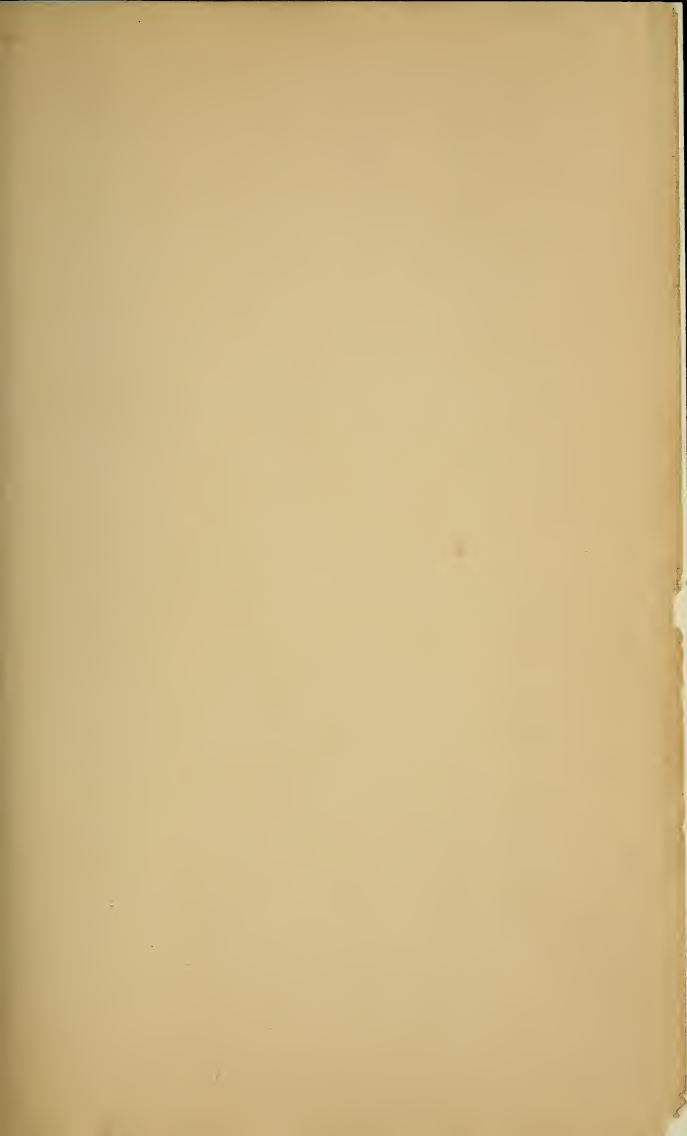
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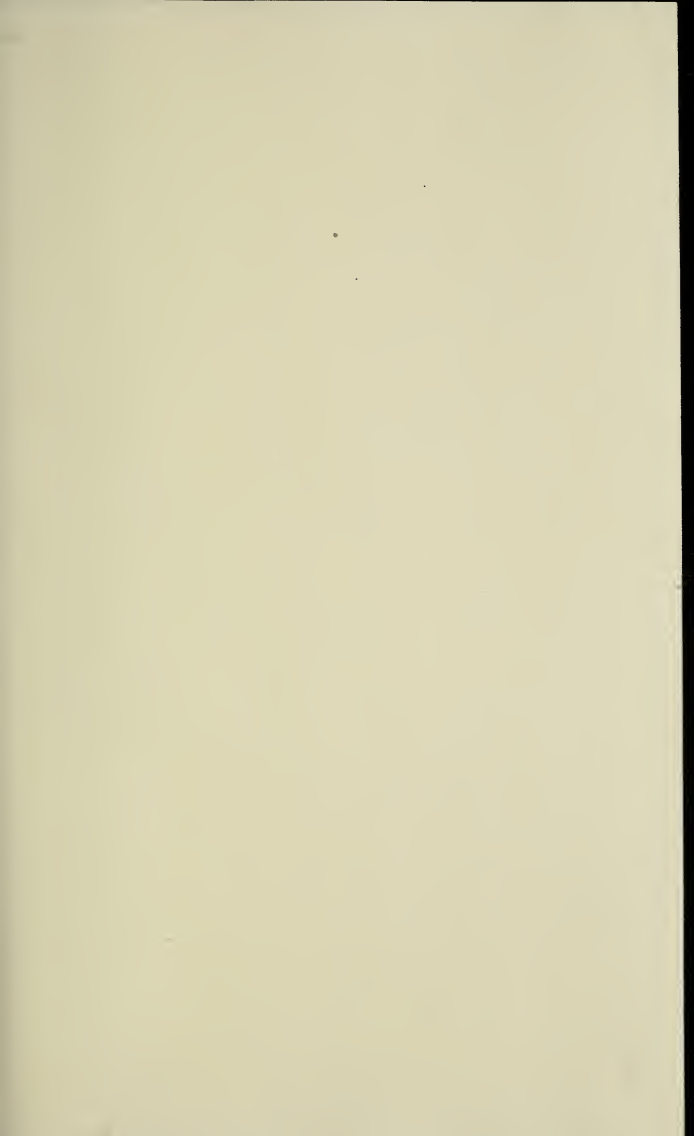
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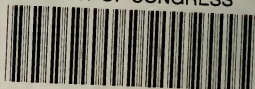








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